
How has the introduction of the GDPR improved the data protection rights of the Finnish citizens?

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Abstract: *This paper is written to better understand how Finland implemented the General Data Protection Regulation (GDPR in short) into law and how it has affected the citizens of Finland. By summarising the old laws and the GDPR we get a better understanding of the importance the GDPR brings and what problems it could solve in the future.*

Data protection and privacy has become a bigger issue and importance because of the growth of data collection. That is why Finland fully incorporated the EU's new data protection regulation into the body of law and by repealing the Personal Data Act, Finland's old data protection law. The GDPR has brought a wide range of new protection and privacy standards for the Finnish citizens such as the right to forget and the right to know how ones information is being used.

Keywords: *GDPR, Data Protection, Privacy, Finland, Law*

INTRODUCTION

Privacy is a human right that is regarded as important and vital for the wellbeing of people. But we usually take our right to privacy for granted and just assume that it is automatically kept private from others. The average adult spends about 5.9 hours of time per day on social media and the internet overall in a study conducted 2018.¹ This means that for every Instagram page or Facebook link that a person browses there are hundred pieces of information stored in the form of cookies, which other websites and companies use to know a person's habits.² The introduction of stricter data protection laws was enforced in the EU in the form of the General Data Protection Regulations or GDPR for short and will function as a corner stone for future laws.³ Data is so valuable nowadays that there is a need for further regulations and updated versions of most laws concerning data. How has Finland changed their privacy laws and what new rights does the GDPR bring to the citizens?

1. DEFINITIONS

1.1. Data protection

Defining data protection is difficult because there are so many aspects that are involved in its making. Nevertheless, according to the European Union's legislation personal data is any information relating to an identified or identifiable natural person.⁴ One way of defining data protection is "the condition of not having undocumented personal information about oneself known by others"⁵ which dictates that information that is private to oneself shouldn't be documented and thus should have a label of privacy over it. A more modern definition for data protection could be

¹ Meeker, Mary, *Internet Trends 2018: Digital media usage*, Kleiner Perkins, 2018, P.11

² Amitai, Etzioni, *Privacy in a cyber age: Policy and practice*, Palgrave, Macmillan, 2015, P.77

³ Colin, Tankard, *Network Security: What GDPR means for businesses*, Elsevier Ltd, 2016, P. 5 – 8

⁴ *Ibidem*, P.9

⁵ W. A. Parent, *A new definition of privacy for the law*, Volume 2 Issue 3, 1983, P. 305

“legal rules that aim to protect the rights, freedoms and interests of individuals, whose personal data are collected, stored, processed, disseminated, destroyed”⁶.

Privacy is the fundamental right that your information is being protected from unlawful sources and it can seem obvious that everyone should have the right to have a private life. But this can be very hard to control because of the many factors that are the making of privacy.

1.2. Data subjects and Collectors

Data subjects are persons with “any information relating to an identified or identifiable natural person”⁷. This means that anyone who uses the internet or sends messages leave data which they are the data subject of.

A controller according to the General Data Protection Regulation “means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data”⁸. Collectors can be anyone from websites to governments and their purpose is to gather the data the data subjects provide.

2. GOVERNING LAWS OF DATA PROTECTION IN FINLAND

Finland has a couple of laws that regulate data protection such as the constitution, acts and now the GDPR. What are the laws? The main principle of privacy in Finland is written in the Finnish constitution “chapter 2 section 10”⁹. According to section 10 “The right to privacy” everyone has the right of privacy in their home, life and honour. It even states that data protection is more detailed in another act which was the “Personal Data Act”¹⁰ but now is replaced by the GDPR¹¹. The General Data Protection Regulations will be further addressed in the next chapter.

2.1. Personal Data Act (repealed)

The Personal Data Act in Finnish law was established 1999 and focused on the rights and privacy of Finland’s citizens. It was the governing law for data protection in Finland until 1.1.2019 when the act was repealed and the GDPR took over its place as the main law for data protection in Finnish law. The acts objective was to ensure a quality of protection of data, protection of a private life and other basic rights that includes privacy. With quality of data means that anyone who gets access or acquires data must have it quality checked that it is indeed accurate data. Protection of private life was kept in control with chapter 3 of the act prohibiting any processing of sensitive data such as ethnicity, criminal acts, state of health, sexual relation and much more. Some parts of sensitive data could still be published anonymously for research.

The act on the other hand did not protect data that was published or otherwise made public. The Personal Data Act did not either have any special rights of allowing information to be controlled or removed from websites because it only had authority in the Republic of Finland.¹²

⁶ Maria, Tzanou, *The fundamental right to data protection: Normative value in the context of counter terrorism surveillance*, Bloomsbury, 2017, P. 13

⁷ Regulation (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016/679, Article: 4

⁸ *Ibidem*, Article: 4

⁹ *The Constitution of Finland*, 11.6.1999 / 731

¹⁰ *Personal Data Act*, 1999 / 523

¹¹ Tomi. Mikkonen, *Perceptions of controllers on EU data protection reform: A Finnish perspective*, 2014, Abstract

¹² *Personal Data Act*, 1999 / 523

2.2. Other minor acts about data protection in Finland

The other acts about data protection that supported the Personal Data Act and follows the GDPR are the Act on the Protection of Privacy in Working Life, Information Society Code, and the Act on the Protection of Privacy in Electronic Communications.

The Act of the Protection of Privacy in Working Life's purpose is to ensure that employers take the right measures to secure the data and information of their employees and customers. Information that can be private and thus protected can be for example the emails of the employees which according to the law needs a law-enforced reason for employers to get data about the employees from electronic messages.¹³

The Information Society Code's objective is to ensure the quality and reach of communication services across Finland, to ensure that the communications systems in Finland are confidential and data protected. This doesn't only affect Finnish companies but also larger communications platforms that provide services to Finland.¹⁴

The Act on the Protection of Privacy in Electronic Communications objective is to have all electronic communications data and privacy sufficiently protected.¹⁵

3. THE EUROPEAN UNION'S DATA PROTECTION LAW

3.1. What is the GDPR?

The General Data Protection Regulation or GDPR for short is the EU regulation for processing data, free movement of data and privacy. It was introduced in May of 2016 and brought into effect may of 2018.¹⁶ All data that is gathered from European Union citizens have to be according to the GDPR and the persons data who is being collected has to be aware of it.¹⁷ Addition to being aware of collection all citizens of the European Union must have the possibility of control of their data and have rights that allow them to edit their own data.¹⁸ There are still some restriction to this scope such as any data outside of EU law is not protected by the GDPR such as criminal activity.¹⁹

The GDPR was introduced seemingly in a good time when big data collectors such as google are making headlines with debatable unethical data collection.²⁰ You could say that the GDPR has brought the concept of consent to the web and thus making it more user friendly in a corporate world.

3.2. How data privacy has evolved in the EU

Before the GDPR there was hardly any regulation in the EU on how websites on the internet should try to protect and defend users from data miners.²¹ Data privacy was enacted and brought up with Article 8 of the European Union charter of fundamental rights. But there wasn't really any hard

¹³ *Act on the Protection of Privacy in Working Life*, 2004 / 759

¹⁴ *Information Society Code*, 2014 / 917

¹⁵ *Act on the Protection of Privacy in Electronic Communications*, 2004 / 516 – 2011 / 365

¹⁶ Regulation (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016/679, Article: 4

¹⁷ *Ibidem*, Article: 13

¹⁸ *Ibidem*, Article: 16

¹⁹ *Ibidem*, Article: 23

²⁰ URL: <https://www.independent.co.uk/news/world/americas/google-location-data-privacy-android-sundar-pichai-a8490636.html> Accessed: 20.4.2019

²¹ Maria, Tzanou, *The fundamental right to data protection: Normative value in the context of counter terrorism surveillance*, Bloomsbury, 2017, P. 1

enforcing of keeping user's information secure.²² This has created great deal of hardship in cases where data privacy wasn't recognised properly because of the lack of laws.²³ The GDPR which became enforceable in 2018 made a way for all citizens of the EU and EEA to in principle have moderate control over data.²⁴ This brought the possibility to control remove or revoke one owns data.²⁵

3.3. The rights of the data subjects

With the GDPR there came a lot of new rights and obligation for the citizens of the European Union such as the knowledge of collection of information. Thus, making it easier to choose who can access data the user inputs on the web. The following are some rights that the GDPR secures:

The right to know where the information is used. This right gives the citizens of EU the possibility to see what information websites for example uses, who is collecting it and for what purpose.²⁶

The right to rectification or in other words have uncompleted data corrected. This allows anyone to either correct or complete data that anyone has collected on data subjects.²⁷

An important right that has caught the eye of many is the right to erasure or "the right to be forgotten" as many calls it. It allows any EU citizen to have their data removed from any data bank or website. It is crucial for the development of a free and protected internet and society to have the possibility to remove unwanted and unimportant information from the internet.²⁸

The right of restricting of processing gives the users the right to restrict any data gathered from processing that data. This can be useful in cases where a collector of data may have used data unlawfully and thus the data subject can restrict it from further usage.²⁹

Right to data portability is the right to get the data in a foreseeably usable format and to be able to export data from one data source to another.³⁰

Right to object of processing or handling of a data subjects' information. Anyone has the right to at any time object if they see that the data is handled improperly.³¹

3.4. Obligations of the collectors

Collectors of data are now obliged to follow all the rules and obligations that the GDPR sets for them or face consequences such as big sanctions.³² Some obligations that collectors must follow are notifying the user in cases where data is being erased or restricted from the user and full transparency of what data they have already collected.

²² *Ibidem*

²³ Kerikmäe, T., Mürsepp, P., Särav, S., & Chochia, A. (2017). Ethical lawyer or moral computer—historical and contemporary discourse on incredulity between the human and a machine. *Вісник Національної академії правових наук України*, (2), 27-42.

²⁴ Jan, Philipp, Albrecht, *EDPL: How the GDPR will change the world*, 2016, P.287

²⁵ Regulation (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016/679, Chapter: 3

²⁶ *Ibidem*, Article: 13

²⁷ *Ibidem*, Article: 16

²⁸ *Ibidem*, Article: 17

²⁹ *Ibidem*, Article: 18

³⁰ *Ibidem*, Article: 20

³¹ *Ibidem*, Article: 21

³² Jan, Philipp, Albrecht, *EDPL: How the GDPR will change the world?*, 2016, P. 287

In case of a breach in a collector's security and data subject's privacy the company or collector has 72 hours to notify the data subjects of the breach before charges can be pressed and sanctions given.³³

4. DIFFERENCES BETWEEN FINNISH LAWS AND THE GDPR

The GDPR brought a new perspective to what of all individuals data is being stored and how we as EU citizens can improve our knowledge on how to control it. New information of how everyone can improve privacy is important and interesting to follow its development in all nations. Now because of the GDPR the citizens of Finland have a much broader protection of all information. Before the GDPR Finland used the Personal Data Act which had very well thought rights such as keeping an equal level of protection even outside Finnish borders. But with the introduction of the GDPR this law wasn't needed because the whole European Union must have the same level of protection for all data. The main reason for its repeal was the fact that it was quite old and did not cover the new technologies and messaging services that have been invented and thus had to be used in quite broad terms.

The biggest and newest difference are the new rights and specifically the right to be forgotten. Before the GDPR there was nothing written in the Personal Data Act about a method in Finland on how to assure that your information has been deleted from a website or data source. But now thanks to the GDPR you have it written in law and all companies that function inside of the European Union must follow these regulations.

The Finnish laws regulated the quality and data that could be collected. But there was not really any sanction for collectors that used their data subjects information without their knowledge or consent. The GDPR solved this problem by introducing strict rules to collectors on what they can do with the data they acquire. Transparency of data is a concept that is very important in a democracy. It is crucial to have information available to all citizens about the states involvement in different subjects, which is why transparency in a state is helpful so that everyone understand what is going on. The citizens must also have transparency on what is happening with their own data which is why the GDPR offers full responsibility to the collectors to keep the data protected and safe.³⁴ The Finnish regulations do offer through the Information society code³⁵ a way to ensure a quality of data collected and that they follow certain rules. But not nearly as closely as the General Data Protection Regulation does.

5. CASE: COLLECTING AND DISTRIBUTING OF PERSONAL- AND TAX INFORMATION

In the case Satakunnan Markkinapörssi Oy and Satamedia Oy there was collection of tax information and personal information of about 1 million citizens in Finland.³⁶ The reason for the case being controversial was that Satakunnan Markkinapörssi Oy and Satamedia Oy used means of text messages for people to find out others tax information. This goes against violation of the Finnish

³³ Regulation (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016/679, Article: 33

³⁴ Michelle. Goddard, *The EU General Data Protection Regulation: European regulation that has a global impact*, 2017, Core Privacy Principles

³⁵ *Information Society Code*, 2014 / 917

³⁶ *Helsingin hallinto-oikeus*, KHO: 05/0839/2 29.9.2005

constitution chapter 2 section 10, and the old data protection law the Personal Data Act 2 §. The dispute was covered in Finland at first and went through many courts before going to the supreme court and even the Court of Justice of the European Union. The problem was the interpretation of data protection and privacy laws. Finland did not have a clear enough data act in the dispute of sending personal information through text messages and tax information being publicised by a corporation.

If the case would be tried under the General Data protection Regulations today it would probably had taken another turn because of a more direct and modern regulation. Satakunnan Markkinapörssi Oy and Satamedia Oy should have according to the GDPR firstly asked consent for the collection of this data that they had acquired and were going to use for personal gain. It could plausibly even be the only needed requirement for the court. Secondly according to the GDPR the usage of a data subjects' information must be disclosed to them. In this case it should have been disclosed to all data subjects about the tax information and personal information being distributed through the text messages.

Speculations aside, the problem with the case is that there was not sufficient enough regulation on what some one can do with the data they collect. It is so easy to just ignore any data that is on yourself in the world before some one uses it in a way that you do not agree with.

6. OPINIONS

The General Data Protection Regulation is a welcoming new breath of air towards an old system that was not developed for the future but seems hastily put together for the time. To determine what counts as personal data and to determine who and how it is protected is what the GDPR brought to the citizens of Finland. Even though the other Finnish data protection laws are in effect and are there to support the GDPR and keep some separate standards outside of the personal data department. Should Finland be concerned that Finland doesn't have their own personal data act? The data regulation brought by the EU is a lot more working in a wide range. Privacy is a big subject in the world today and many citizens of the European union up to 69% are worried that the data that is gathered on them is used for other purposes than disclosed of, in a survey done in 2017³⁷. This is a big concern indeed but the GDPR that was is in effect since 2018 is here to eliminate that concern by making harder regulation on data collectors.

The possibility of withholding or not allowing data to different collectors could still be a variable that we have to figure out. Possibilities of the effects it has are quite broad and there are a lot that must be considering. Examples could be not enough data for surveys or research to be made, but it looks like a farfetched possibility now.

As mentioned before in case, Everyone should become more aware of the data that is on them online or anywhere really. No one cares about data that they just don't know exist, but when that data comes forward its usually really unsettling. The case talked about that information of over 1 million Finnish citizens were used against their will and without them knowingly selling that information as a service.³⁸

³⁷ Vasilik, D, Konstantinos, A, Michalis, P, Haralambos, M, *A Metamodel for GDPR-based Privacy Level Agreements*, 2017, P. 1

³⁸ *Helsingin hallinto-oikeus*, KHO: 05/0839/2 29.9.2005

6.1. Introduction of data protection laws a possible gateway for even stricter laws

To take as an example the citizens of Finland. With the introduction of the GDPR they can have control of the data that they produce whilst online, texting and writing. Will this new possibility of data control bring a need for more control over what can be done with personal data or looser restrictions for collectors of data on what can be collected? At the moment data should be collected only for “specific, explicit and legitimate purposes”³⁹ furthermore it should be accurate. But how does a individual know that this is being enforced and how can anyone check up on this? Some stricter features that could be a modern way of regulating data protection could be a way for collectors to show all the time what data that is being collected and the data subjects having full control of what can be submitted and what not. Even though the GDPR is in full action there are surely some that still don't follow it as they should. The future will surely hold methods for easily viewing all data traffic and information collected and a possibility for citizens to have full control.

SUMMARY

Broadly translated we can conclude how data protection in Finland has improved the rights of the citizens by allowing new rights and regulation to come in act. The conclusion would at first glance seem quite simple but it is not. The Finnish citizens had quite well written laws on data protection and security. But the General Data Protection Regulation just upgraded all the necessary regulation to a much more modern and data subject friendly standpoint. The GDPR with its improvements in individual control of a data subjects own data such as the right to be forgotten or the right to know what happens to ones data is very crucial in shaping a democracy with enough privacy. Even private matters that are collected has more regulations on it now more than ever. The difference between privacy and data protection is that privacy is the right for a private life whilst data protection is the right to have your own data protected, erased and controlled.⁴⁰ The old Finnish data law was quite similar but the GDPR is so much more modern for a technologically advanced future.

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