GDPR Articles
With
Commentary & EU Case Laws

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Author is International Cyber Law & Privacy Expert and a practicing High Court Lawyer based out of Mumbai in India. He is Masters in Computer Science and Masters in Law with Certification in Computer Forensics & Information Systems Security Auditing and prior working experience in the field of Software, Networking & IT Security. He is Chevening (UK) Cyber Security Fellow & IVLP (USA). He is the founder president of a law firm named Cyber Law Consulting. He was awarded as Cyber Security Lawyer of the year (Asia Pacific) in 2016 and Cyber Security Lawyer of the Year by Financial Monthly Magazine of UK. He has been a sought after speaker on National and International forums and is interviewed by BBC World, Bloomberg, Zee News, NDTV, CNBC, Al Jazeera etc. His articles are published in various magazines across the world and he is been quoted by leading daily newspapers. He has conducted various workshops on GDPR in various countries and has unique way of explaining GDPR with examples and by comparing it to existing laws of the country.

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PREFACE

I was the early starter to get awakened towards GDPR due to my practice in cyber and privacy law. When I first started the firm EUGDPR Institute, I was sure about writing a book on GDPR but never knew the connotations it would have. I was involved in training participants from many large IT Companies like Tech Mahindra, TCS, Oracle, IBM, Cognizant etc. and obviously partners from large law firms then I decided to pen this book as the legal language and its interpretation was always a challenge to these technology or GRC migrants. Being author of published and famous books on cyber law made the structure of this book clear in my mind. Articles of GDPR do have a typical international law kinda language and often raises more than one questions or doubts in the avid reader of the topic.

This book is a series of articles and interpretations. It deals with questions of applicability of GDPR articles in various scenarios; at its core, GDPR is a new set of rules designed to give EU citizens more control over their personal data. It aims to simplify the regulatory environment for business so both citizens and businesses in the European Union can fully benefit from the digital economy.

Fundamentally, almost every aspect of our lives revolves around data. From social media companies, to banks, retailers, and governments -- almost every service we use involves the collection and analysis of our personal data. Your name, address, credit card number and more all collected, analysed and, perhaps most importantly, stored by organisations

In this busy age, when we are all bombarded with information, it is helpful, I think, to be offered a chance to take a breath and do things simply. There is something meditative about reading the GDPR articles one by one and again going through it next time. There is something therapeutic in watching people's faces light up when they find they are compliant to particular article of GDPR. There is something healing in the simple task of being aware about applicability of GDPR to the organisation. GDPR applies to any organisation operating within the EU, as well as any organisations outside of the EU, which offer goods or services to customers or businesses in the EU. That ultimately means that almost every major corporation and practitioner in the world will need this book to understand, implement, comply and re-comply with GDPR.

Whether you are a DPO, a auditor, a lawyer, a student, a GRC professional, a privacy devotee, a lonely heart nostalgic for GDPR trainings — I hope you find something of value in these pages. This book might inspire you to read your GDPR compliance report again, or it might just offer you an imaginative escape from the incessant hurry of modern day compliance requirements. Maybe it will prompt you to call your legal and compliance team. Regardless of how you use this book, I hope it helps you in some small way to build a data protection and privacy regime within your mind or in the organisation.

I Sincerely want to put on record my deep appreciation and salute to the team working on this book with special reference to Lawyer Tejal Patel, she has gone extra length to research and formalize the contents of this book.

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CHAPTER 1: GENERAL PROVISIONS

Art. 1 GDPR Subject-matter and objectives

1. This Regulation lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data.

2. This Regulation protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.

3. The free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data.

Suitable Recitals

(1) Data protection as a fundamental right; (2) Respect of the fundamental rights and freedoms; (3) Directive 95/46/EC harmonization; (4) Data protection in balance with other fundamental rights; (5) Cooperation between Member States to exchange personal data; (6) Ensuring a high level of data protection despite the increased exchange of data; (7) The framework is based on control and certainty; (8) Adoption into national law; (9) Different standards of protection by the Directive 95/46/EC; (10) Harmonised level of data protection despite national scope; (11) Harmonisation of the powers and sanctions; (12) Authorization of the European Parliament and the Council.

COMMENTARY:

The European Union's (EU) view on data protection is closely linked to privacy issues, which does not appear to always be the right approach in dealing with data protection. The privacy concept as outlined in Art. 8 of the European Convention on Human Rights refers mainly to the right to private and family life, respect of private home and private correspondence. The data protection could include privacy issues but is not limited to them.

Data protection means the right of a person to know which data is gathered in regards to her person, how the data is used, aggregated, protected, and where the data is transmitted. Anyone has the right to have access to that data and to modify it. In all cases, the person has to give his/her consent for that data to be used by another person, government, or any other entity. Data protection values are not essentially privacy related ones. These values cannot be dealt with just through the privacy perspective. They are autonomous values, which grant fundamental rights: the right to data protection as recognised by Article 8 in the Charter of Fundamental Rights of the European Union: "Protection of personal data: Everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified".

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