BECH-BRUUN

GDPR – fundamental rights

BECH-BRUUN

Corporate Compliance & Investigations

Our expertise includes	
Compliance & internal Investigations	We offer a wide range of compliance tools, including compliance and risk analysis, supplier investigations, drafting and implementation of compliance programmes and policies. In addition we offer training of employees and managers – either as standard solutions or tailored to the individual organisation.
Anti-corruption & anti-bribery	We assist enterprises, organisations and public authorities who want to prevent incidents of corruption and bribery within their own areas, and who want or need to document their efforts.
Money laundering	We draft compliance programmes in relation to the Danish Money Laundering Act and can help you tailor a compliance programme specifically for your needs and requirements.
Corporate criminal law	We assist enterprises and organisations that are victims of criminal activity, be that from employees or from outsiders. We assist in the investigation of suspicious activity and the securing of evidence, crisis handling, contact to the relevant authorities, drafting of any reports filed with the police, assessment of claim for compensation, etc.
Personal Data Protection	The General Data Protection Regulation (GDPR), security breaches, whistleblower schemes, collection and protection of sensitive personal data, and sector-specific legislation. Data protection law is very much in focus, and failure to observe the law may have dire consequences for enterprises and public organisations.

The new General Data Protection Regulation draws up the battle lines and adjusts the rules for business operations

- The GDPR strengthens already existing regulation on processing of personal data.
- However, several new rules will have an impact on business operations.
- Increasing risk of large fines, other sanctions and liability ("the yellow and red cards").
- Brand damage may reflect one of the largest commercial risks.
- 'The game' must be optimized to create the best possible framework for business operations.
- New regulations create opportunities – not just limitations.
- Companies should see compliance as an opportunity to create value for the business.

Most significant changes with impact on business operation:

	Topic	Implications	Degree of change
1	**Sanctions**	• GDPR significantly increases the level of sanctions, introducing fines for incompliance of up to EUR 20,000,000 or 4 % of annual global turnover. • Risk of lawsuits from data subjects claiming compensation for material and immaterial damages, expenses for emergency assistance in case of security breaches (consider insurance coverage).	
2	**Accountability / demonstrate compliance**	• Companies must be able to demonstrate their compliance with the GDPR, i.e. document which personal data is being processed, for what purposes , the legal basis for processing etc.	
3	**Data Protection Officer (DPO)**	• Some companies and all public authorities shall appoint a Data Protection Officer to monitor compliance with the GDPR. • Requirements to the DPO: expert knowledge of data protection law and practises.	
4	**Data processors and the use thereof**	• Data processors will be subject to stricter requirements, including accountability. Data controllers can only use data processors who are compliant with the GDPR and are able to demonstrate it.	
5	**Security breach and notification**	• Companies must ensure procedures in place to handle a security breach (monitor, identify, investigate and notify about the security breach). • The Data Protection Agency has to be notified within 72 hours.	
6	**Rights of the data subject**	• Data subjects have fortified rights to information and access to personal data. • The "right to be forgotten" entails a right to erasure of personal data (under certain circumstances). • New data portability rights allows data subjects to receive their personal data (under certain circumstances) in a commonly used and machine-readable format.	

Most significant changes with impact on business operation:

	Topic	Implications	Degree of change
7	**Consent and lawfulness of processing**	• Companies must review on what legal basis personal data is collected and processed, and assess whether amendments are needed. In some instances, the requirements for valid consent will be tightened.	○ ● ○
8	**Privacy by design**	• Companies are required to implement organisational and technical precautions to demonstrate that data protection is prioritized throughout the whole processing life-cycle. • Data protection has to be designed into new systems and processes.	● ○ ○
9	**Data Protection Impact Assessment**	• Data Protection Impact Assessment (DPIA) must be performed e.g. when new technologies are taken into use and the data processing is likely to result in high risk on the rights of the data subjects. • The Data Protection Agency needs to be notified in advance if the said risk is considered high.	○ ● ○
10	**Cross-border transfer of data**	• Requirements on transfer of personal data outside of the EU to 'third countries' are not altered much. However, as the fines for not complying with the GDPR are significantly larger this area should still be in focus.	○ ● ○
11	**Local laws and implementing acts**	• The regulation does not unify personal data legislation in the EU. Member states – including Denmark – will still be able to regulate certain aspects as will the EU Commission by way of implementing acts.	● ○ ○

Fundamental rights – general advice

Purpose limitation – only process personal data for the purposes for which the personal data has initially been collected.

Data minimization – use as little personal data as possible for the identified purpose of the processing.

Take steps to ensure the accuracy of collected personal data.

Limit data retention in terms of personal data and duration to what is necessary for the identified purpose of the processing.

After the applicable storage period has ended, personal data should be securely deleted or destroyed or anonymized.

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