



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 0497/2018 by D.B. (German) on the General Data Protection Regulation (GDPR)

1. Summary of petition

The petitioner asks for further restriction of the material scope of the application of the General Data Protection Regulation and for the addition of the words ‘private’ and ‘non-commercial’ to Article 2 (2) GDPR.

2. Admissibility

Declared admissible on 10 October 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 November 2018

The Commission's observations

Article 2(2)(c) of the General Data Protection Regulation (GDPR)¹ reads: “This Regulation does not apply to the processing of personal data: [...] (c) by a natural person in the course of a purely personal or household activity”. The related recital 18 GDPR explains this provision by stating: “This Regulation does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity and thus with no connection to a professional or commercial activity. Personal or household activities could include correspondence and the holding of addresses, or social networking and online activity undertaken within the context of such activities. However, this Regulation applies to controllers or processors which provide the means for processing personal data for such personal or household activities.”

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council 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), OJ L 119 of 4.5.2016, p. 1.

That recital clarifies explicitly in the GDPR that “a purely personal or household activity” in the meaning of the provision is only such private activity, which is purely personal or restricted to the own household and without connection to any professional or commercial activity. The recital further illustrates this by the examples of correspondence, the holding of addresses, social networking and online activity under the explicit condition “undertaken within the context of such activities”, i.e. in the context of a personal or household activity without any connection to a professional or commercial activity.

Therefore it is already clear from the explanation in the recital that a “purely personal or household activity” in the meaning of Article 2(2)(c) GDPR covers only such private activities which are purely personal or purely a household activity and in particular not related to any professional or commercial activities.

The suggested additional wording could – listed in combination with “or” – even be understood as extending the exemption to “private” and “non-commercial” activities which would go beyond purely personal and household activities and may therefore involve processing of personal data of other individuals that are not in the respective household. Such extension of the exemption from the application of the GDPR would endanger the protection of individuals in relation to the processing of their personal data.

Conclusion

Since it is already clear from the explanation in the recital that the exemption in Article 2(2)(c) GDPR from the scope of the Regulation covers only such private non-commercial activities which consist in a “purely personal or household activity”, there is no reason for amending that provision of the GDPR.