

Wrap up debate on empowering rights holders

Speakers:

1. Wojciech Wiewiórowski, Assistant European Data Protection Supervisor
2. Lora Vidović, Ombudswoman, Croatia
3. Salla Saastamoinen, representing Věra Jourová, EU Commissioner for Justice, Consumers and Gender Equality, European Commission
4. Max Schrems, privacy activist
5. Jan Wouters, Professor of International Law and International Organisations, Leuven University

What is going on with our data? When empowering the person to act on privacy, we need to remember that we are not talking about the data subject, we are talking about human beings. Empowering the human being is not just empowering the human being but empowering the data protection authorities that should work for them and to empower civil societies to show how the ways the data are processed and to find out the real human beings in this data.

When it comes to empowering the people who should be empowering the rights holders, such as ombudsman institutions, the first priority is to increase accessibility to citizens. This includes explaining better what the function of the office is and explain what the actual issues are on the ground. This can make it more influential with government and decision makers. In Croatia they have opened more regional officers and increased complaints by 80%.

The number of complaints does not necessarily show there are more violations but more people know how to reach us. Rights holders distrust the institutions. They feel lost in the system and don't know where to turn to, and basic social services are inaccessible to the elderly and those living in rural areas. National minorities also face discrimination in their rights and discrimination against them in the society. Even if parliament does not like the findings and its consequences for the future realisations of human rights, Ombudsman institutions need to be more determined. In this persuasive NHRI is an important stakeholder.

From the European Commission's side, they also receive complaints. They use their powers to enforce the European blocks. The Commission cannot be an advocate for 500 million people. Instead we have a dialogue with the government to ensure the ombudsmen have the tools to do their job.

Institutions can be used to make cases and the system can be used to get the case up to the Court of Justice. But the problem is that a lot of people cannot just go to the European Court of Justice to get their rights. In the privacy field there are individuals going to the court but in the long run the role of the data protection authorities need to change for the good and take possibilities they have in their office. Here a Europe-wide umbrella data protection NGO could help.

There are also international and supranational organisations that were created to handle issues national states cannot handle on their own anymore. Human rights have become integrated in the world of all international organisations. Human rights need to be at all levels of government, international and supranational institutions. Critical study and increased effectiveness of EU institutions is needed. On the one hand we are too distant from people and the other hand the EU has been promising too much. We need to be humble and realistic at the EU level and realise more work needs to be done to make the EU rights mechanisms even more sophisticated. While there is an EU Fundamental Rights Charter who really knows about it? Even experts often struggle to know when it is applicable.

But it should be remembered that supranational organisations, like the European Commission, need to negotiate with other regional bodies and major states. They aim at the highest possible ambition levels but the views of others come into play which makes it challenging to take all the aspects into consideration at the same time.

When it comes to what happens next panellists were asked to name one action to act on. Collectively they suggested giving a broader mandate to FRA; more information on the rights and education on how to use them including supporting independent bodies; and let's meet in four years and answer what we did in four years to empower rights holders.