Personal Data Protection in the Decision-Making of the CJEU Before and After the Lisbon Treaty

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Abstract: Personal data protection is one of the important areas of the EU's operation and the general public is especially aware of the General Data Protection Regulation (GDPR). However, personal data protection has been an issue in the EU for a long time. The Court of Justice of the European Union (CJEU) plays a major role in personal data protection as their function is to interpret EU law and thus also EU legislation related to personal data protection. Until now, research papers have tackled specific issues related to interpreting EU legislation or analyses of specific decisions made by the CJEU. However, no comprehensive empirical legal study has been published so far which would evaluate the decision-making of the CJEU in the area of personal data protection using a combination of quantitative and qualitative methods. Therefore, no analysis has been carried out to determine how many decisions of the CJEU have been related to personal data protection, how their number has increased, or which participants and from which areas have participated in the proceedings. The results of the analysis presented here can be used as a basis for studying the future development of the CJEU's decision-making in the area of personal data protection in relation to digitization and especially to the COVID-19 pandemic, which undoubtedly has contributed to a significant increase in online communication, posing new challenges towards a more efficient personal data protection in the online world.

Keywords: *Court of Justice of the EU, EU law, GDPR, personal data processing*

1. Introduction

Data is becoming more and more valuable. Also, the skills and opportunities to retrieve different types of personal data are evolving extremely fast. The processing of personal data by governments and the private sector has increased exponentially in recent years, as has the need for legal protection for personal data (Kesa & Kerikmäe, 2020). There is no doubt that personal data protection in the internal market is an important activity of the EU and it concerns several topics—protection of human rights, functioning of the internal market or digitization (Mazur, 2019). In primary law, personal data protection is regulated in Article 16 of the Treaty on the Functioning of the European Union (TFEU), which suggests that everyone has the right to the protection of their own personal data, and in the Charter of Fundamental Rights of the EU (EU CFR), which regulates personal data protection in Article 8(1). Regulation by the EU CFR emphasizes the human rights dimension of personal data protection (e.g., Ventrella, 2020). The human rights dimension is also enhanced by the fact that protection of personal data may conflict with other human rights. It can be, for example, freedom of speech against the right to the protection of personal data (Politou, Alepis & Patsakis, 2018). In such cases, it will be necessary to apply a proportionality test. If the EU legislation considers the protection of personal data to be a fundamental human right, then the degree of protection must correspond to that view, including judicial protection. The most important change, however, is the inclusion of Article 16 of the TFEU. This Article not only refers to an individual right of the data subject to the protection of his or her personal data, but it also obliges the European Parliament and Council to provide for data protection in all areas of European Union law. According to Article 16 of the TFEU:

(1) Everyone has the right to the protection of personal data concerning them.

(2) The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The Lisbon Treaty thus creates potential for greater legislative involvement in the field of data protection through Article 16 of the TFEU. The CJEU's decision-making practice is thus based on the protection of personal data as a fundamental human right. An individual's right to the protection of personal data is as inalienable as other human rights (Buttarelli, 2016, p. 77). Because of all these changes, it is useful to look at a comparison of the CJEU's decision-making practices before and after the Lisbon Treaty.

Primary law is followed by secondary law. Personal data protection used to be mainly regulated in Directive 95/46/EC, which was aimed to harmonize personal data protection (Damian, 2020). Secondary law has been developed in this area since 1995, by adopting, for example, Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 on the processing of personal data and the protection of privacy in the electronic communications sector.

A crucial legislative act in EU law, which has also affected the legislation of Member States, is Regulation (EU) 2016/679 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 (hereafter GDPR). This regulation is also well known to the general public thanks to a (both positive and negative) media campaign (Mazur, 2019). The aim of this regulation, and in fact the aim of all the EU legislation on personal data protection, is to contribute to the completion of the space of freedom, safety and law, an economic union, economic and social progress, strengthening and bringing closer economies within the internal market and to good living conditions of natural persons (point 2 of the GDPR). With regard to an increasing amount of information related to the protection of personal data flowing within the internal market, it was found practical to regulate personal data protection in the form of a unified regulation. The main purpose of the GDPR is to strengthen the protection of personal data and to create a system of sanctions in case of unlawful use of personal data (Puljak *et al.*, 2020, pp. 1–8). The GDPR regulates the basic principles of personal data treatment, for example, the principle of legality, fairness or transparency. The principles which any legal regulation are based on always leave room for diverse interpretations. Therefore, there must be institutions that will unify the interpretations. It is the CJEU that may play a significant role in this area (Uusitalo, 2018). The significance of the CJEU's judicial decisions is all the greater since the GDPR has affected a number of entities—public administration authorities, the education system, health service or businesses and thus also the internal market (Hu & Wei, 2020, pp. 1–6).

Current professional literature includes a significant number of articles, books, comments, etc. dealing with problems related to the interpretation of the GDPR or older legislation, in particular Directive 95/46/EC on the protection of personal data. Many articles focus on a specific decision made by the CJEU (Wiedemann, 2020), various statistics, for example, the perception of the GDPR regulation by the citizens of a specific Member State (Tahal & Formánek, 2020, pp. 78–94), or an analysis of a specific issue, for example, personal data protection in public administration (Szczepaniuk, Rokicki & Klepacki, 2020, pp. 1–11). The most significant area related to personal data protection is the online environment, which is also very varied (Damian, 2020; Lopes *et al.*, 2020). However, no study has been published addressing the impact of personal data protection on the decision-making process of the CJEU through a combination of quantitative and qualitative methods. Sufficient space has not been given in professional literature or in the CJEU statistics to an empirical legal study focusing on personal data protection (CJEU, 2019). Therefore, it is not clear how many CJEU decisions actually concern personal data protection. The judicial decisions of the CJEU cannot be neglected in examining personal data protection because they establish practical decision-making. CJEU's decision-making practice and its position are very important and cannot be questioned, thus it influences legislation through its decision-making practice. The CJEU fundamentally influences EU law and thereby the daily life of EU citizens. An empirical study on the CJEU's decision-making practice can thus be worth undertaking for the purpose of finding out how a certain policy is applied in practice, i.e., what are the weak points, or the areas in which the legislation is applied well. The protection of personal data and especially the interpretation of the GDPR is thus a challenge for courts and for the private sector (Zarsky, 2017).

There are several ways to empirically verify how a specific policy is applied in practice. One of these is to analyse the decision-making practice of the CJEU, which has a decisive influence on the interpretation of EU law. If protection of personal data is enshrined in primary law, it is undoubtedly an important area of the EU's activities and it is important to know the position of the CJEU on this topic. The main function of the CJEU is the interpretation of the Treaties (Article 19 of the TFEU). It is thus possible to ask how often personal data protection is decided before this institution. If, for example, it is clear from the decision-making practice of the CJEU that most disputes concern the data protection of public authorities, then it would probably be suitable to prepare specific regulations that would specify certain items. That approach could lead to avoiding litigation. On the other hand,

if disputes are less frequent in this area, no further regulation is needed. Our study aims to analyse the number and development of the CJEU's cases in the area of personal data protection, to analyse the development of the number of cases before and after the Lisbon Treaty and to evaluate which areas of personal data protection have been considered, i.e., which subjects, which types of cases, as well as which Member States are most active in this area.

The aim of this empirical legal study is to answer the following questions:

RQ1: How many decisions made by the CJEU have been meritorious decisions concerning personal data protection?

RQ2: Did the number of meritorious decisions made by the CJEU in the area of personal data protection grow after the acceptance of the Lisbon Treaty?

RQ3: Within which EU policies (areas of the EU's operation) did the CJEU make the most decisions related to personal data protection?

RQ4: What type of CJEU proceedings prevail in the area of personal data protection—requests for a preliminary question or lawsuits?

RQ5: Who is most often the participant in the CJEU proceedings related to a decision concerning personal data protection—natural persons, legal entities, Member States or the EU?

RQ6: Which Member States, or rather citizens or legal entities of the Member States, are most often the participants in the proceedings?

2. Methods

To meet the goal and answer the research questions (RQ1–RQ6), quantitative and qualitative analyses of the CJEU decisions were performed. In accordance with professional literature, the mixed methods research design was used (Doron, 2013, pp. 604–608).¹ The research design and sampling were based on the method of computerized searching for decisions on the official CJEU website (<https://curia.europa.eu>). To find and gather all the CJEU cases, combinations of several key words were used ('personal data', 'GDPR',

¹ This method is used, for example, by Prof. Doron in several of his articles (e.g., Doron, 2013).

‘data privacy’, ‘ePrivacy’, etc.). The time period was set to 1 January 1953 to 31 December 2019.² After entering the above-mentioned combinations into the official search engine, 1,852 decisions were found. We analysed the judgements and decisions that were or were not included in the ‘Collection of decisions and proceedings terminated’ because we believe that only these include authoritative decisions on the rights and obligations. We did not work with the opinions of attorneys general, views and summaries that are also available in the search form. These are important for the decision-making but are not yet final decisions. We worked with decisions made by all the courts of the EU Court of Justice, i.e., the Court of Justice, the General Court and the Civil Service Tribunal.

First, we entered the above-mentioned combination of keywords into the search engine and obtained a total of 1,852 decisions. Then, we selected 98 decisions using a qualitative content analysis (QCA). Each of these decisions was analysed in detail. The decisions were categorized based on different variables—the type of proceedings (a legal action or a preliminary question), the participants in the proceedings (a natural person or a legal entity, state, public authority, the EU), the identity of the EU countries, and content of legislation.

3. Results

3.1 Number of decisions

The total number of decisions in which the protection of personal data was dealt with meritoriously is 98. As Figure 1 shows, the number of decisions related to protection of personal data has increased since 2011. This may be related to the fact that enshrining personal data protection from the Lisbon Treaty in primary law led to a greater interest in this issue.

We can see that the adoption of the GDPR regulation has not yet caused a dramatic increase in the number of decisions, which is given by the fact that it has been in force for a short time (since 2018). If we compare the average number of decisions made in two periods, i.e., before 2009 or before the adoption of the Lisbon Treaty, and after 2009, we can see that there has been an increase. From 1999 to 2008, the average number of decisions was two per year; from 2009 to 2019, the number increased to approximately

² The analysis of the CJEU decisions was performed in 2020, which is why the data on 2020 are not included in the analysis.

Figure 1. Number of decisions directly related to the issue of personal data per year

Source: Authors' own calculations; N=98

Figure 2. Number of legislative acts related to personal data protection adopted in 1995–2019

Source: Authors' own calculations

seven decisions per year. Since 2009, the average number of decisions has become almost four times higher, which may indicate a greater interest in the protection of personal data related to the increased amount of legislation related to this issue, as can be seen in Figure 2.

The number of decisions made by the CJEU naturally correlates with the amount of legislation adopted. The second figure shows selected crucial regulations (orders and directives) related to personal data protection adopted in the period from 1995 to 2019.³

3.2 Procedural analysis and participants in the proceedings

Most decisions were related to a preliminary question—fifty decisions within preliminary question proceedings (e.g., *Worten – Equipamentos para o Lar SA v. Autoridade para as Condições de Trabalho (ACT)* [2013]) and in 48 decisions, the CJEU decided about legal actions, for example, an action over the failure of a state to fulfil an obligation (e.g., *European Commission v. Hungary* [2014]; *European Commission v. Greece* [2006]), cassation remedial measure proceedings (*European Commission v. The Bavarian Lager Co. Ltd.* [2010] in relation to Decision T-194/04) or an action for annulment (*Ireland v. European Parliament and Council of the European Union* [2009]).

Most participants in the proceedings were natural persons (43) (e.g., *Sergejs Buivids v. Datu valsts inspekcija* [2019]), the number of legal entities as participants in the proceedings was smaller (28) (e.g., *Fashion ID GmbH & Co. KG v. Verbraucherzentrale NRW eV* [2019]). One of the participants was the European Union or some of her bodies, e.g., the European Parliament or the European Commission (19) (e.g., *European Commission v. Federal Republic of Germany* [2010]).

The majority of legal disputes were related to disputes between the European Union and a state, a natural person or a legal entity (45) (e.g., *Commission of the European Communities v. Grand Duchy of Luxembourg* [2001]). Another large group included natural persons and legal entities versus public authority disputes (40) (e.g., *Smaranda Bara and others v. Președintele Casei Naționale de Asigurări de Sănătate, Casa Națională de Asigurări de Sănătate, Agenția Națională de Administrare Fiscală (ANAF)*

³ Directive 95/46/EC; Directive 2000/31/EC; Regulation (EC) no. 45/2001; Directive 2002/58/EC; Directive 2003/98/EC; Directive 2011/24/EU; Regulation (EU) no. 603/2013; Directive (EU) 2016/680; Regulation (EU) 2016/679; Directive (EU) 2016/681; Regulation (EU) 2018/1807; Directive (EU) 2019/770; Directive (EU) 2019/1024; and Directive (EU) 2019/1937.

Figure 3. Number of preliminary rulings and actions related to personal data protection adopted in 1995–2019

Source: Authors' own calculations; N = 98

Figure 4. Categories of the participants in the proceedings related to personal data protection in 1995–2019

Source: Authors' own calculations; N = 98

[2015]). Decisions that were frequent were those which involved a public authority (e.g., *Autoridade para as Condições de Trabalho*), which, within an inspection, came to a conclusion that an employer contravened regulations regarding the protection of the personal data of employees. Then, a preliminary question had to be asked in relation to personal data processing (e.g., *Worten – Equipamentos para o Lar, SA v. Autoridade para as Condições de Trabalho* [2013]). The least frequent disputes were those between natural persons and legal entities (13) (e.g., *Josef Probst v. mr.nexnet GmbH* [2012]).

Figure 5. Categories of disputes related to personal data protection in 1995–2019

Source: Authors’ own calculations; N = 98

Note: In the analysis we distinguished only between three categories of decisions. We always included all decisions in one of them.

3.3 The legal area

The decisions analysed were categorized in the same way as done by the CJEU. Some decisions were put in several categories, which is why we have chosen the most fitting one. The largest number of decisions fell into the category of approximation of regulations (48). In the category of approximation of legal regulations, the most common preliminary question was related to the interpretation and application of Directive EP 95/46/ES from 1995 and to Directive 2002/58/ES of the European Parliament and Commission from 12 July 2002. As mentioned above, the legal form was also

discussed in relation to the personal data protection legislation, i.e., whether a regulation the aim of which is unification or a directive the aim of which is harmonization should be selected. These were the numerous decisions concerning the preliminary question in the category of approximation of regulations which led us to the conclusion that the form of a regulation is suitable as it more effectively ensures a unified interpretation.

Data protection applies in every sphere, no matter within which sector or regulation the personal data was processed; surprisingly also in the sphere of agriculture. Another area included regulations on authorities (17) and questions related to staff regulation (10). In the category of regulations on authorities, the issues mainly concerned access to various documents including personal data of some persons (e.g., *Asklepios Kliniken GmbH v. Commission of the European Communities* [2007]). Data protection also constitutes a large legal area, which should logically come first, but personal data protection has often been dealt with meritoriously, not primarily. That is why it is represented by only six decisions in this category. For example, the decision *Sergejs Buivids v. Datu valsts inspekcija* [2019] dealt with a question related to the use of a video recording of police officers. As mentioned above, personal data protection is mainly connected with the protection of fundamental human rights. The category of fundamental human rights includes four decisions (e.g., the decision *TK v. Asociația de Proprietari bloc M5A-ScaraA* [2019], which dealt with CCTV and its use in accordance with the Charter of Fundamental Rights of the European Union) and the category of principles includes three decisions. One of the decisions from the category of principles was *European Parliament v. Council of the European Union* [2006], where the issue was a decision of the Council about concluding an agreement on processing and sharing passenger name records of the U.S. Customs and Border Protection Bureau of the Department of Homeland Security, and Decision of the Commission 2004/535/ES of 14 May 2004 on appropriate protection of personal data contained in the records on air-passenger bookings, which are shared with the U.S. Customs and Border Protection Bureau. One of the issues in this matter was the extent of authority to conclude such an agreement on personal data protection.

Other categories mainly include constituent decisions. The area of economic policy includes, for example, interpretation of Article 124 of the TFEU and a regulation which enables a public authority of a Member State to share personal data with another public authority and process these without the data subjects being informed about this sharing and processing.

Figure 6. Categories of EU policies related to personal data protection adopted in 1995–2019

Source: Authors' own calculations

Personal data protection is naturally also related to creating a space of freedom, safety, and rights. One of the decisions related to this matter is the decision in the case of *W. P. Willems v. Burgemeester van Nuth* [2015], which dealt with biometric data and travel documents. Personal data protection is also related to public safety and sharing personal data of clients (e.g., *Safe Interenvíos SA v. Liberbank SA, Banco de Sabadell SA, Banco Bilbao Vizcaya Argentaria SA* [2016]). Personal data protection has also been addressed in the area of agriculture and fishing. In the decision of *Volker und Markus Schecke GbR, Hartmut Eifert v. Land Hessen* [2010], the CJEU dealt with publishing personal data of grant recipients. Personal data protection is also related to effective protection of intellectual property rights (*Productores de Música de España (Promusicae) v. Telefónica de España SAU* [2008] or *Adidas AG* [1999]). A subject of the CJEU's decisions has also been various registers, particularly public ones. For example, in the *Heinz Huber v. Bundesrepublik Deutschland* [2008] decision, the CJEU decided as part of the proceedings on a preliminary question concerning the processing of personal data in the EU register of citizens of a different Member State, where data on an Austrian citizen were kept in a database that was not required to include German citizens.

3.4 Country analysis

In this category, we included both the EU Member States and the EU itself and Great Britain. Disputes over personal data protection, in which the EU is involved, are among the most frequent ones. If we only take Member States into consideration, the largest number of cases are in Germany (13), then the Netherlands (8), Belgium and Ireland (6), and Spain (5).

Figure 7. EU Member States in personal data protection adopted in 1999–2019

Source: Authors' own calculations

4. Discussion and conclusions

Personal data protection is one of the marginal areas that the CJEU deals with, which is perhaps surprising considering the attention that has been paid to this subject, especially by the media. For example, in 2015, the CJEU made 616 decisions, only 10 of which (1.6%) were related to personal data protection. The ratio was similar in 2016, 2017, 2018, and 2019 (CJEU, 2019). However, the number of regulations and directives adopted and the number of the CJEU decisions related to personal data protection is growing. In total, the CJEU made 98 meritorious decisions on personal data protection (RQ1); the average number of decisions made in the period from 2009 to 2019 is almost four times higher compared to the period from 1999 to 2008 (RQ2). The reason probably is personal data protection being enshrined in primary law and, above all, the increasing amount of administrative work connected with digitisation and the need for personal data protection in the online environment. We assume that anchoring in primary law enters the protection of personal data into greater awareness of individuals. Undoubtedly, it contributed to this in the media campaign on GDPR.

Considering the number of decisions, it is clear that the established practice in making decisions for personal data protection had been created even before the GDPR was adopted in 2016. Directive 95/46/ES in particular played an important role. Currently, there are not many CJEU decisions on the GDPR. In relation to the current pandemic, it can be expected that the number of the CJEU decisions will increase as the frequency of online meetings has increased significantly and this environment is a point of interest of the CJEU.⁴

Based on the analysis of the CJEU case-law, the areas related to personal data protection are highly varied, including issues related to cookies,⁵ the use of video recordings,⁶ personal data protection in internet searching,⁷ evidence,⁸ public interest in data disclosure within the fight against crime⁹,

⁴ See, e.g., *Patrick Breyer v. Bundesrepublik Deutschland* [2016] or *Bodil Lindqvist* [2003], in which the CJEU decided on data from a web browser.

⁵ *Bundesverband der Verbraucherzentralen und Verbraucherverbände – Verbraucherzentrale Bundesverband eV v. Planet49 GmbH* [2019].

⁶ *Sergejs Buivids v. Datu valsts inspekcija* [2019].

⁷ *GC, AF, BH, ED v. Commission nationale de l'informatique et des libertés* [2019].

⁸ *Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde v. Rīgas pašvaldības SIA "Rīgas satiksme"* [2017]; *Peter Puškár v Finančnému riaditeľstvu Slovenskej republiky, Kriminálnemu úradu finančnej správy* [2017] and most importantly *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos (AEPD), Mario Costeja González* [2014] (see also Razmetaeva, 2020).

⁹ *Tele2 Sverige AB v. Post- och telestyrelsen* [2016] (joined cases C-203/15 and C-698/15).

written answers of a person being examined and the notes of the examiner are also personal data,¹⁰ conflicting issues related to personal data protection,¹¹ issues related to the protection of employees' personal data and records of their working hours,¹² use of camera footage,¹³ data on ID documents¹⁴ and data in a protocol,¹⁵ personal data protection related to assignment of a debt connected with an agreement on the provision of telecommunication services,¹⁶ personal data protection in the collection of public documents by Tax Offices.¹⁷ The largest number of decisions were made in the category of approximation of legal regulations dealt with in preliminary question proceedings. We believe that the reason is interpretation problems related to regulations protecting personal data that mainly the public authorities are faced with (RQ3 and RQ4).

More frequent participants in the proceedings are natural persons, which is caused by the fact that personal data protection is related to the protection of human rights and interference with human personal rights (RQ5). However, it is also true that personal data protection is important for legal entities as well, for example, with regard to their clients or employees, and that is why there is only a small difference between the number of natural persons and legal entities as participants in the proceedings. The area of personal data protection is quite varied. There are various subjects among the participants in the proceedings, e.g., a homeowners' association (*TK v. Asociația de Proprietari bloc M5A-ScaraA* [2019]) or a religious organization (*Proceedings against Tietosuojavaltuutettu* [2018]). There is undoubtedly an impact on healthcare (Hallinan, 2020) or scientific research (Ducato, 2020). With regard to nationality, the majority of disputes over personal data protection concern persons (natural or legal) or public authorities from Germany. This can be explained by both a large population and a large number of businessmen located in Germany. On the other hand, it is true that the population need not be crucial. For example, Belgium, whose population is approximately 10 million, has more disputes than more populous Poland or France (RQ6).

¹⁰ *Peter Nowak v. Data Protection Commissioner* [2017].

¹¹ E.g., *Verein für Konsumenteninformation v. Amazon EU Sàrl* [2016] and *Weltimmo s. r. o. v. Nemzeti Adatvédelmi és Információszabadság Hatóság* [2015].

¹² *Pharmacontinente – Saúde e Higiene SA, Domingos Sequeira de Almeida, Luis Mesquita Soares Moutinho, Rui Teixeira Soares de Almeida, André de Carvalho e Sousa contre Autoridade para as Condições do Trabalho (ACT)* [2014] and *Worten – Equipamentos para o Lar, SA v. Autoridade para as Condições de Trabalho (ACT)* [2013].

¹³ *František Ryneš v. Úřadu pro ochranu osobních údajů* [2014].

¹⁴ *W. P. Willems v. Burgemeester van Nuth* [2015].

¹⁵ *Y.S. v. Minister voor Immigratie, Integratie en Asiel* [2014].

¹⁶ *Josef Probst v. mr.nexnet GmbH* [2012].

¹⁷ *Tietosuojavaltuutettu v. Satakunnan Markkinapörssi Oy, Satamedia Oy* [2008].

The most significant area related to personal data protection is the online environment, which is also highly varied (Damian, 2020; Lopes *et al.*, 2020).

5. Further recommendations

Currently, there are not many CJEU decisions on the GDPR. The exponential growth of digital information (RFID and the internet of things, social networking sites, behavioural advertising and cloud computing) as a result of COVID-19, development of communication technologies, but also the increased use of digital information in the area of freedom, security and justice can impact personal data protection in the online environment. Literature attempting to analyse the current situation has already emerged. With the large number of issues having moved to the online environment, there will probably be an increase in the number of the CJEU decisions in the form of a preliminary question and interpretation of certain GDPR provisions. It will be essential to balance the private interests in personal data protection and the public ones. The GDPR and all the related legislation protecting the privacy of persons (natural and legal) will be put to a real test (Ventrella, 2020, pp. 379–393). Similarly, in many Member States, issues will emerge related to personal data protection in healthcare and research related to the pandemic. It will be necessary to work with personal data, including data on the number of COVID-19 patients (Becker *et al.*, 2020). In the online environment, there will be an increasing number of issues concerning interpretation of the GDPR in connection with the COVID-19 pandemic. It will be necessary to prepare various applications and programmes regulating the online environment, not only in the EU. These include, for example, tracking and the related applications and the importance of public health protection (GDPR, Art. 9(i); Bradford, Aboy & Liddell, 2020) or information asymmetries on the data-driven market and personal data protection (Waerdt, 2020).

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