DIGITAL Legal Update

October 2025

Weinhold Legal

Below we bring you the latest information from the DIGITAL field. If you have any questions about the information below, please do not hesitate to contact us.

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The Data Act is effective

On September 12, Regulation (EU) 2023/2854 on harmonized rules for fair access to and use of data, known as the **Data Act**, came into effect. The aim of this regulation is to ensure equal access to data and promote its effective use in the business environment within the European Union.

The regulation focuses on **non-personal data** generated by connected products, known as "smart devices" – such as connected cars, home appliances, health bracelets, or agricultural machinery – which are part of the Internet of Things (IoT).

Under the Data Act, **users** gain access to all data generated by connected products and related services (e.g., follow-up applications). Users should have a simple way to transfer their data between different providers, with providers being obliged to remove technical barriers and ensure standardization.

On the other hand, the **data holder** is obliged to ensure that users have access to the data, either directly (e.g. in the application) or upon request (so-called indirect access).

Under certain circumstances (e.g., in **crisis situations**), state and European authorities may also have access to the data. However, this access is conditional on the requested data being necessary to respond to the crisis situation and the public sector being unable to obtain this data in a timely and effective manner under equivalent conditions by other means.

The Data Act guarantees data sharing between companies on fair, reasonable, and non-discriminatory terms. If the terms are unreasonable (e.g., unilateral agreements limiting liability), they are not binding under the Data Act on the company to which they were unilaterally imposed.

Although the Data Act is not primarily related to personal data, it regulates access to data and data sharing in a broader sense, whereby the rules on personal data protection under the GDPR must be respected.

The new regulation will therefore have an impact primarily on companies' contracts and terms and conditions. It is also important to consider the relationship between the Data Act and the protection of trade secrets or copyright.

Rules for general AI models

On August 2, 2025, new rules for providers of **general-purpose AI models** ("General-Purpose AI" or "GPAI") came

into effect under the AI Act.

In this context, the Commission has also published new Guidelines on the scope of obligations of GPAI providers. GPAIs are models that have been trained using computing power exceeding 10^23 FLOPs and are capable of generating content such as text, speech, or images.

When placing GPAI models on the EU market, providers now have the following obligations:

- Publish a summary of **the data on which the model was trained**. The Commission has prepared a template for providers for this purpose, which is designed to be simple and, with accompanying explanations, to help providers fulfill their obligations.
- Create and adhere to a guideline on model **copyright compliance**.
- Prepare **technical documentation**.

For the most powerful and influential models that pose a so-called **systemic risk** (with 10^25 FLOPs), the AI Act sets out additional, stricter obligations. Providers of these models must not only meet all the basic requirements, but are also required to:

- Inform the Commission about your model.
- Conduct thorough assessments and testing to identify and mitigate potential systemic risks, such as threats to fundamental rights or security.
- Ensure a robust level of cybersecurity and protection against misuse.

The AI Act will come into effect gradually:

- From August 2, 2025: The rules apply to AI models placed on the market after this date. Providers of models posing a systemic risk must immediately inform the Commission.
- From August 2, 2026: The Commission acquires full powers to enforce the rules, including the power to impose fines. In the first year of effectiveness, i.e. from August 2, 2025, the Commission cannot take any enforcement measures, as its enforcement powers only take effect on August 2, 2026.
- From August 2, 2027: From this date, providers of AI models that were placed on the market before August 2, 2025, must also ensure compliance with the above rules.

Furthermore, the Commission has prepared a Code of Practice as a voluntary tool for GPAI providers, enabling them to demonstrate compliance with their obligations under the AI Act. Providers who commit to it will have a lower administrative burden and greater legal certainty.

Voluntary ESG reporting standard for small and medium-sized enterprises

The European Commission has introduced a new voluntary standard for sustainability reporting designed for small and medium-sized enterprises (SMEs).

The standard was developed by EFRAG and aims to reduce the administrative burden on SMEs. At the same time, it should enable them to respond effectively to requests for sustainability information from investors, banks, and other major business partners.

The standard is divided into two interrelated modules, allowing companies to choose the level of detail according to their needs and capabilities.

- The basic module represents the minimum scope of reporting and is designed as the target for micro-

enterprises (i.e., they do not have to use the entire module and can choose only individual parts) and as the minimum for SMEs. It covers the most important and most frequently requested information -from energy consumption and greenhouse gas emissions to employee data and anti-corruption measures.

- The comprehensive module is designed for companies that want or need to provide more detailed information. This module includes items that are often required by banks and investors for financing purposes or by large corporations within their supply chains. These include, for example, climate strategy or established human rights policies.

One of the main benefits of the standard is supposed to be the **"value-chain cap."** Large companies subject to mandatory reporting under the CSRD are encouraged to limit their data requirements from SME partners to the information contained in this voluntary standard. For small and medium-sized enterprises, this should mean protection from being overwhelmed by dozens of different questionnaires and inconsistent requirements.

However, this is only a temporary solution until **Omnibus** I is adopted, which proposes to limit mandatory reporting under CSRD to large companies with more than 1,000 employees. The future delegated act may therefore differ from today's voluntary standard.

Commission: Google abused its dominance in adtech

The European Commission has fined Google €2.95 billion for violating competition rules. Since at least 2014, Google has abused its **dominant position in the ad tech sector** by systematically favoring its own services at the expense of competitors, advertisers, and online publishers.

According to the Commission's decision, Google has a dominant position in the market for (i) advertising servers for publishers with its "DFP" service and in the market for (ii) programmatic advertising buying tools with its "Google Ads" and "DV360" services.

Specifically, the Commission found that Google abused its dominant position by favoring its own AdX advertising exchange in the ad selection process. Google also avoided competing ad exchanges and bid primarily on AdX, making it the most attractive advertising exchange.

As a result of Google's illegal conduct, advertisers faced higher marketing costs, which they likely passed on to European consumers in the form of higher prices for products and services. Google's conduct also reduced publishers' revenues, which could have led to lower quality services and higher subscription costs for consumers.

As this was already the umpteenth violation of competition rules, the Commission increased the fine and also ordered Google to end its conflict of interest in the adtech sector.

The Commission's decision therefore has the following consequences:

- Google must **end** its practices of favoring its own services and has **60 days** to inform the Commission how it will eliminate its conflict of interest across its entire advertising technology chain.
- The Commission has indicated that a mere change in behavior may not be sufficient to eliminate the conflict of interest. **Selling off** part of Google's services appears to be an effective solution.
- Anyone who has been harmed by Google's anti-competitive conduct can **seek damages** in court.

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DSA: New guidelines for child protection

The European Commission has published Guidelines on the protection of minors under the Digital Services Act (**DSA**).

The new guidelines provide a series of recommendations on how platforms should approach the protection of underage users. This is not an exhaustive list of obligations, but rather a signal of the direction in which European authorities are likely to take their oversight.

- Platforms should limit minors' exposure to practices that may lead to addictive behavior.
- Minors should be able to easily block or mute other users. They should also not be added to groups without their explicit consent.
- It is also proposed to prohibit the downloading or taking of screenshots of content published by minors in order to prevent the unwanted dissemination of sensitive material.
- It is also recommended that minors' accounts be private by default. This is to minimize the risk of them being contacted by strangers.

Along with the guidelines, the Commission also presented a prototype age verification application designed to set the "gold standard" in this area while maintaining maximum privacy. The application is designed to allow users to prove that they are over 18 years of age in order to access adult content without revealing their exact identity or age. This system will now be tested in cooperation with Member States, with Denmark, Spain, France, Italy, and Greece among the first countries to participate.

The technological solution is based on the same foundations as the future European digital wallet, which, according to the Commission, should ensure their mutual compatibility in the future.

EDPB adopts Guidelines on harmonizing the DSA and GDPR

The European Data Protection Board (EDPB) has focused on the interrelationship between the Digital Services Act (DSA) and the General Data Protection Regulation (GDPR).

The EDPB has issued Guidelines No. 3/2025, which explain how intermediary service providers, such as online platforms, internet service providers, and cloud storage providers, should interpret and apply the principles of the GDPR in the context of the DSA, particularly when processing personal data.

Among other things, the guidelines address:

- how to reconcile DSA obligations (content moderation, advertising, notice-and-action) with GDPR,
- legal basis for processing and the principle of minimization,
- automation, profiling, and special categories of data,
- prohibition of dark patterns in data processing,
- child protection and transparency in advertising services,
- division of roles and responsibilities (controller vs. processor).

The EDPB has announced that the guidelines are open for public consultation until October 31, 2025.

Based on these initial guidelines concerning the relationship between the GDPR and the DSA, further cooperation between the EDPB and the European Commission is

ongoing. Further guidelines are being prepared concerning the relationship between the Digital Markets Act (DMA) and the GDPR, as well as the relationship between the Artificial Intelligence Act (AI Act) and the GDPR. In this context, in December 2024, the EDPB issued Opinion 28/2024 on certain aspects of data protection in relation to the processing of personal data in the context of artificial intelligence models. This is a key document that addresses when and how the GDPR applies to the development and deployment of AI models. We have already informed you about this opinion here (in the Digital Legal Update in February 2025.

GDPR: Omnibus IV

In a new legislative package called Omnibus IV, the Commission proposes measures to strengthen incentives for small and medium-sized enterprises. The package is intended to promote digitization and reduce bureaucracy.

A new category of **SMCs (small mid cap companies)** is being introduced, which have fewer than 750 employees. At the same time, their turnover is less than EUR 150 million or their total assets are less than EUR 129 million (the exact figures may still be changed during the legislative process). Previously, these companies were considered large companies.

Businesses designated as SMCs will have access to certain benefits and simplifications that were previously reserved only for small and medium-sized enterprises (SMEs).

The main areas of simplification include, for example, the **GDPR**, where SMEs will no longer have to create or update their existing records of activities related to the processing of personal data in cases where these activities are unlikely to pose a high risk to the rights and freedoms of data subjects.

On September 24, 2025, the European Council approved the Omnibus IV legislative package, which will now be debated in the European Parliament.

GDPR: Court confirms validity of EU-US Data Privacy Framework

General Court of the EU (Tribunal) In its decision of September 3, 2025, in case T-533/23 (Latombe v. Commission), the General Court dismissed the action seeking annulment of the Commission's 2023 decision on the adequacy of the EU-US Data Privacy Framework (DPF), which declared the United States to be a country providing an adequate level of protection for personal data. This decision allows the transfer of personal data from the EU to US organizations that have certified under the DPF without additional safeguards.

The Court found that the Data Protection Review Court (DPRC) mechanism in the US provides sufficient guarantees of independence and impartiality. Companies that transfer personal data to the US may continue to use the EU-US Data Privacy Framework.

In its decision, the court stated that equivalent protection does not mean identical regulation, but protection providing a comparable level of rights and safeguards.

However, the above decision of the General Court is not final, as an appeal to the Court of Justice of the EU cannot be ruled out. We will keep you informed of further developments in this case.

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Cancellation of the European Online Dispute Resolution (ODR) platform for consumer disputes

The European Online Dispute Resolution (ODR) platform for consumer disputes was officially closed on July 20, 2025. The reasons for its closure were mainly the minimal use of the platform and the high costs of its operation. This decision was part of a broader review of the European framework for out-of-court consumer dispute resolution (ADR), which included the repeal of Regulation (EU) No. 524/2013 and the adoption of new measures aimed at simplifying and streamlining the process.

What does this mean for consumers and businesses in the Czech Republic?

- **For consumers:** They can continue to use alternative methods of out-of-court dispute resolution through national ADR entities, such as the Czech Trade Inspection Authority (ČOI).
- **For entrepreneurs (especially e-shop operators):** The obligation to inform consumers about the ODR platform has been abolished. All references to this platform must be removed from websites, terms and conditions, and other documents. Entrepreneurs should provide information about the availability of out-of-court dispute resolution through national ADR entities.

The European Commission plans to develop a new digital tool to replace the discontinued ODR platform. However, no further details are available.

For further information, please contact the partner/manager with whom you are usually in contact.

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