

Recognizing and Enabling the Collective Dimension of the GDPR

This paper investigates the European General Data Protection Regulation (GDPR) understood as a legal architecture that is specifically designed to reshape power/knowledge relations. The GDPR acknowledges that human relations that are mediated through technology, whether they are in the public or private domain, are generally characterized by informational power asymmetry.

From a legal design perspective the GDPR is an “architecture of empowerment”. It configures a legal-institutional framework of actors (such as data subjects, data protection authorities and civil society organizations), and assigns these actors with rights (such as the right of access to personal data) with the aim of overcoming these asymmetries. The legal-institutional framework enables an “Ecology of transparency” which is the intra-institutional network of actors, laws, norms and practices in which data rights are being exercised.

The paper is written around numerous practical examples of collective practices that show the success, as well as the considerable obstacles that still remain, in overcoming informational power symmetries. On the one hand it shows that the various legal tools, and in particular the right of access to personal data, are successfully being used citizens and civil society and the media. On the other hand these examples show that a legal framework that relies on citizen-empowerment can only function when it is backed up by a solid system of stringent enforcement, which is currently lacking.