

Current FADP	GDPR	Revised FADP
Protection of privacy for natural and legal persons	Protection of privacy for natural persons	Protection of privacy for natural persons only (Art. 1)
Territorial application	Territorial and extraterritorial application	Territorial and extraterritorial (limited) application
Sensitive data	Sensitive data, including biometric and genetic data	Sensitive data, including biometric and genetic data (Art. 5)
Duty to declare data files in certain situations	Records of processing activities (mandatory from 250 employees or if the processing presents a risk)	Records of processing activities (mandatory from 250 employees or if the processing presents a risk), with exceptions for the Federal Council (Art. 12)
-	Privacy by design and by default	Privacy by design and by default
-	Obligation to report data security breaches	Obligation to report data security breaches
-	Impact analysis (self-regulation, mandatory in certain cases)	Impact analysis (mandatory in certain cases)
Duty to provide information on the collection of sensible personal data and personality profiles	Duty to provide information on the collection of all data	Duty to provide information on the collection of all data, duty to provide information on the name of the State in situations of communication abroad (Art. 19 and 20)
Right of access	Right of access , of deletion	Right of access (strengthened and specified) and to request deletion
-	Right to data portability	Right to receive or transfer personal data (data portability) (subject to acceptions) (Art. 28 and 29)
-	Right to not be subject to automated decision-making and duty to provide information	Right to not be subject to automated decision-making and duty to provide information

Source: adapted from A. Dorthe, seminar February 2021

Current FADP	GDPR	Revised FADP
Criminal sanctions: max. CHF 10,000.-	Administrative sanctions (max. EUR 20 million or 4% of the annual global turnover) The amount to be paid depends on various criteria	Criminal sanctions (private parties => natural) Fine of CHF 250,000.- max. (willfully, or recklessly) Breach of the duty of secrecy CHF 50,000 max for companies (instead of natural persons) (Art. 64) Denunciation by the Federal Data Protection and Information Commissioner (Art 63)
Legal action - > disruption of project, damages and compensation	Legal action - > disruption of project, damages and compensation	Legal action - > disruption of project, damages and compensation
Reputation of the company, bad publicity (publication of the ruling), loss in value for the company, advantageous for competitors	Reputation of the company, bad publicity (publication of the ruling), loss in value for the company, advantageous for competitors	Reputation of the company, bad publicity (publication of the ruling), loss in value for the company, advantageous for competitors
Loss of clients, partnerships, investors, etc.	Loss of clients, partnerships, investors, etc.	Loss of clients, partnerships, investors, etc.

Source: adapted from A. Dorthe, seminar February 2021