



CÂMARA DOS DEPUTADOS

10 - 11 de maio de 2017

International Legal Frameworks on Data Protection and Privacy

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Outline

I - The EU Approach to Privacy and Data Protection

II - The EU DP Reform: new General Data Protection Regulation 2016/679 (GDPR) - Key aspects

II - International transfers of personal data: The GDPR and the Commission's Communication of 10 Jan. 2017 on Exchanging and Protection Personal Data in a Globalised World





I - European law on Privacy & Data Protection

Privacy

ECHR 1950 Art 8 / EU Charter Art 7 : *the Right to Privacy ... and communications*

ePrivacy Directive 2002/58 (under revision)

Data Protection

OECD Guidelines 1980 (soft law)

Council of Europe Convention No 108 and Additional Protocol -> 50 States, European and 3 non-European Members


Art 8 EU Charter, Art. 16 TFEU: *The Right to Protection of Personal Data*

*DP Directive 95/46 -> **Reg 2016/679 (GDPR)***





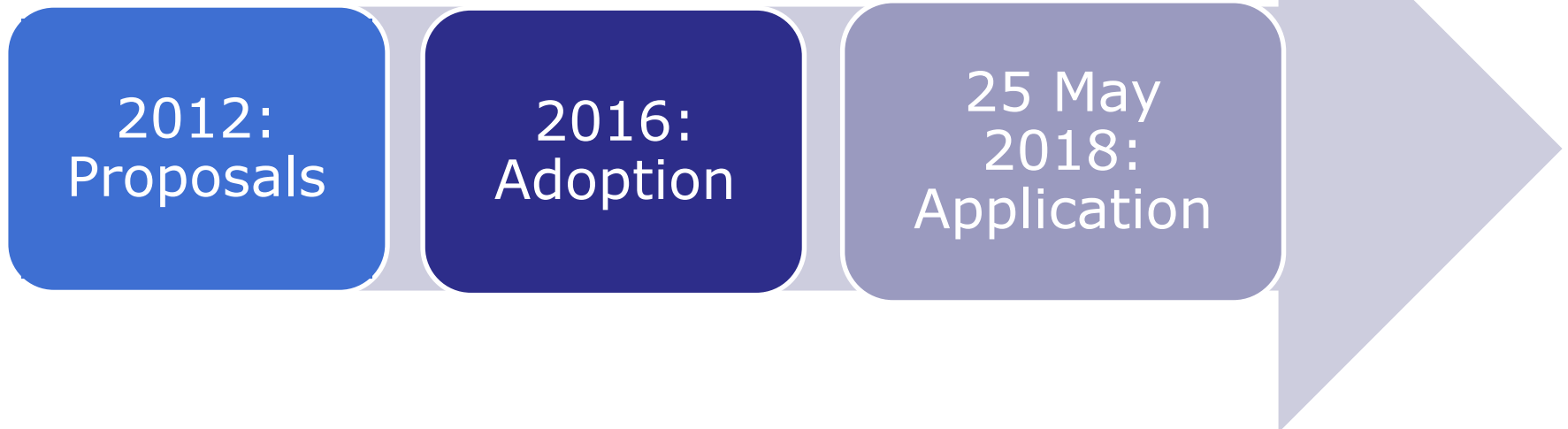
Essential legal requirements (Art. 8 EU Charter)

- **Personal Data must be processed fairly for specific purposes**
 - **On the basis of consent or some other legitimate basis laid down by law**
 - **Compliance with the rules subject to control by an independent authority**
 - **Legal remedies**
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II - The EU Data Protection Reform Package: timeline

- General Data Protection Regulation (GDPR)
- Directive in the field of police and criminal justice cooperation (Police Directive)





Why a new European framework for Data Protection?

- **Technology developments and globalisation:** addressing the challenges and seizing the opportunities of the digital economy (Big Data) -> **TRUST needed**
 - **Constitutionalisation of the fundamental right to data protection** (Lisbon Treaty)
 - **Fragmentation of legislative framework** (different transposition of Directive 95/46/EC into national laws)
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GDPR Main objectives and major changes

RULES FIT FOR THE DIGITAL SINGLE MARKET (a harmonised and simplified framework)

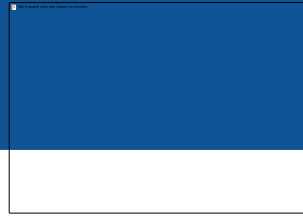
One single set of rules, "one-stop-shop" mechanism, cutting red tape ...

PUTTING INDIVIDUALS IN CONTROL OF THEIR DATA (an updated set of rights and obligations)

Enhancing transparency, clarifying the conditions for consent, right to data portability, right to be forgotten, profiling, privacy by design, legal remedies ...

A MODERN DATA PROTECTION GOVERNANCE

Stronger national DPAs, consistency mechanism for cross-border cases, establishment of a European Data Protection Board to ensure consistent application of the Regulation, credible sanctions...



III - International transfers of personal data

ADDRESSING THE CHALLENGES OF GLOBALISATION

- Globalised world, personal data is being transferred across an increasing number of borders and stored on servers in multiple countries
- Trade relies more and more on personal data flows and these transfers have to be facilitated
- At the same time continuity of protection of individuals' rights must be ensured: the protection should travel with the data!



International transfers of personal data

HOW IS THIS ADDRESSED IN THE EU DATA PROTECTION REFORM AND THE 10 JAN. 2017 COMMUNICATION?

1. Clear rules defining **when EU law is applicable** (including to operators established outside of the EU)
2. A **renewed and diversified toolkit** for international transfers
 - Precise and detailed *criteria for adequacy decisions*, new possibility to adopt *adequacy decisions in the law enforcement sector*
 - *Simplification* (abolishment of prior notification/authorisation) and *expanded possibilities of use* of other tools for transfers (standard contractual clauses, BCRs)
 - Introduction of *new tools* (e.g. certification mechanisms, approved codes of conduct)
3. **International cooperation** in the field of data protection
4. A **strategic action plan** for international transfers, including "*prioritise discussions on possible adequacy decisions with key trading partners... with countries in Latin America, in particular Mercosur* " (10 Jan. 2017 Communication, p. 10).



For more information

- Regulation (EU) 2016/679

- Communication of 10.01.2017 (COM(2017)7

Directorate General for Justice:

http://ec.europa.eu/justice/data-protection/index_en.htm

- **Data Transfers outside the EU:**

http://ec.europa.eu/justice/data-protection/international-transfers/index_en.htm

- **WP 29 guidelines:**

http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=50083



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THANK YOU!

QUESTIONS, COMMENTS?

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