



The New EU General Data Protection Regulation (GDPR) Regulation (EU) 2016/679

Key dates and facts:

- Repealing Directive 95/46/EC from 1995
- Applicable starting 25 May 2018
- Direct application in the Member States

The GDPR in 10 points:

1. **Right to be forgotten, objection, data portability and right to disclosure:**
Companies can only refuse the request to remove personal data in very restricted exceptions. They also have to forward the removal request to third parties that direct to the published data and to those that received copies of the data. **Objection:** Citizens can now object to the processing of their own data, even automatically (e.g. “Do-not-track” browser settings are regarded as an objection). **Data portability:** Service-providers have to provide personal data to the concerned person in a common interoperable format, in order to allow easy portability. **Disclosure:** User data has to be delivered electronically, free of charge and quickly, allowing everyone to know easily what data is where.
2. **Consent:**
Data processing always requires a legal basis which can be the consent of the concerned person. This allows the individual to decide who can receive, use or save their personal data. In keeping with self-determination, consent should be given by a **clear affirmative act** establishing a **freely given, specific, informed and unambiguous indication** of the data subject's agreement to the processing of personal data relating to him or her. The GDPR also provides a legal frame for a revocation of consent.
3. **Information and transparency:**
To give citizens control back over their personal data, information and transparency are crucial. Information about who processes the data, the purpose and the legal basis of the processing, the right to revoke the consent, if the data is transferred to a third country, the duration of its storage, the source of the data if it is personal, etc. have to be provided to the concerned person in clear, easy-to-understand language and free of charge.
4. **Strict rules for data transfer to third countries:**
Even when personal data is transferred to or stored in third countries, the same rights apply. Third countries have to be deemed to apply comparable data protection standards in order to be eligible to the data transfer. This makes the GDPR a **“gold standard”** that other countries try to match.
5. **Precise definitions:**
Data that is not personal, such as completely anonymized data or pure machine data, does not fall under the scope of the GDPR. However, the mere identification or recognition of a person (“singling out”) is recognized as encroachment of personal rights, even if the name or identity of the person is not revealed.
6. **Severe sanctions:**
Sanctions for breaches of data protection can be up to 4 % of the annual turnover of a

company. This is a considerable leap forward compared to the former possible penalties of 300,000 euros.

7. **Privacy by design:**

The GDPR includes the requirement that data processing actors have to design their services in a data-minimising way and provide **data protection friendly pre-settings**. The upcoming ePrivacy regulation aims to require software producers to apply strict data protection standards.

8. **Less bureaucracy:**

The regulation character of the law makes it easier for companies to be conform to the law because 28 different standards are being replaced by EU-wide rules. This is an effort towards the European Single Market and provides better conditions for European service providers that do not have to compete with international players that formerly chose their headquarters in places with the least strict data protection legislations.

9. **Uniform law enforcement:**

The GDPR no longer allows a “race to the bottom” to countries where the data protection rules are the least strict. The **European Data Protection Board, having the capacity to make legally binding decisions** in case national authorities have conflicting views, is supporting enforcement. This body also provides guidelines to the competent authorities.

10. **One-Stop-Shop approach for citizens and companies across Europe:**

No matter where the concerned company has its headquarters or where the data breach happened, citizens can consult the data protection authority in their respective member state. Likewise, companies can consult the authority in the member state of their headquarters. **Coordination of requests across the borders** is ensured by the authorities.

Further information sources:

-  The 2016 Brochure on the GDPR: <https://www.janalbrecht.eu/wp-content/uploads/2018/01/20151211-JPA-Datenschutzreform-ENG-WEB-01.pdf>
-  Broschüre zur Datenschutzgrundverordnung: <https://www.janalbrecht.eu/wp-content/uploads/2018/01/20150403-JPA-Datenschutzreform-09-web.pdf>
-  10 Punkte zur Datenschutzgrundverordnung (ausführlich, deutsch): <https://www.janalbrecht.eu/2018/02/2012-12-12-alles-wichtige-zur-datenschutzreform/>
-  The Documentary movie about the emergence and negotiation process, available as DVD with English subtitles: <http://www.democracy-film.de/>
-  Animated Short Video explaining the GDPR (“My Data My Choice”): <https://www.youtube.com/watch?v=PVaVIOJniSQ>
-  Animierter Kurzfilm zur DS-GVO (“Meine Daten, meine Wahl”): <https://www.youtube.com/watch?v=n3ZCH9Hv-nY>
-  The adopted text of the General Data Protection Regulation: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R0679>

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