



# A Modern European Data Protection Framework

*Safeguarding Privacy and Exchanging Data in a Connected World*

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# Outline

## I. The EU Data Protection Reform: objectives, main elements, implementation

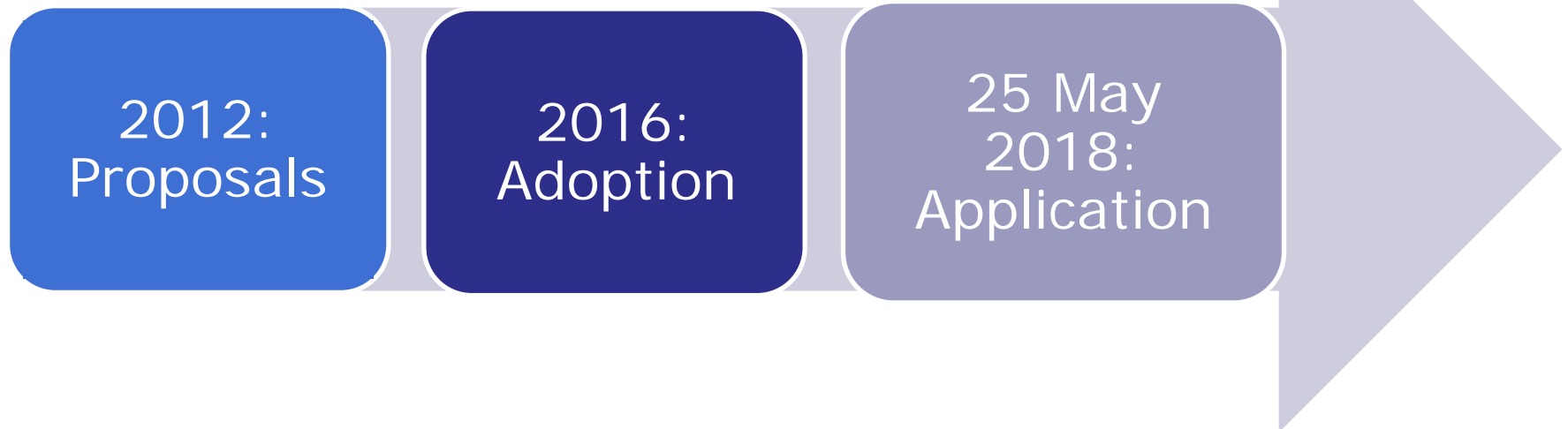
- a harmonised and simplified framework
- an updated set of rights and obligations
- a modern governance system

## II. International transfers of personal data: from the EU Data Protection Reform to the 10 Jan. 2017 Commission's Communication on Exchanging and Protecting Personal Data in a Globalised World

- facilitating trade by protecting privacy, including through possible **adequacy decisions** with key trading partners "starting with **Japan** and Korea" (see Communication, p. 8 and Abe-Juncker statement of 6 July 2017)
- more effective law enforcement cooperation with robust data protection safeguards
- promoting convergence and international cooperation, in particular in the framework of **Convention 108 of the Council of Europe**

# 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
- **Constitutionalisation of the fundamental right to data protection** (Lisbon Treaty)
- **Fragmentation of legislative framework** (different transposition of Directive 95/46/EC into national laws)



# 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, notification of data breaches, right to data portability, right to be forgotten, risk-based approach...

## ***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...

## A harmonised and simplified framework

- **One single set of data protection rules for the EU** (Regulation)
- **One interlocutor and one interpretation** (one-stop-shop and consistency mechanism)
- **Creating a level playing field** (territorial scope)
- **Cutting red tape** (abolishment of most prior notification and authorisation requirements), including as regards international transfers

## An updated set of rights and obligations

- **Evolution rather than revolution:** basic architecture and core principles are maintained (key principles, legal bases for processing, individual rights, notion of personal data)
- **Putting individuals in better control of their data** (e.g. consent to be given by clear affirmative action, better information about data processing)....
- ...including through the introduction of new rights (e.g. right to portability) and **obligations** (e.g. data breach notification)
- Obligations graduated in function of the nature and potential risks of processing operations (**risk-based approach:** DPO, DPIA, data breach notification)
- Stronger rights, clearer obligations, **more trust**

## A modern governance system

- **Better equipped DPAs and better cooperation amongst them** (e.g. joint investigations)
- **A new decision-making process for cross-border cases** (the consistency mechanism)
- The creation of the **European Data Protection Board** (guidance and dispute settlement)
- **Credible and proportionate sanctions** (2/4% of global turnover in light of nature, duration, gravity etc. of the violation)





# The transition period and beyond

- GDPR will apply from **25 May 2018**
- Preparing a **compliance-ready/friendly environment**:  
"We need to use this time well to get everybody, i.e. Member States, DPAs, citizens and companies to prepare for the new rules. The Commission will work closely with the Member States, data protection authorities and other stakeholders to ensure a **uniform application of the rules**. We will also" run **awareness-raising campaigns** so that citizens know their new rights (Commissioner V. Jourová)



# The transition period and beyond

- **Aligning other legislative instruments** (e.g. 10 Jan. 2017 proposal for an ePrivacy Regulation)
- Central role of **DPAs** (Art. 29 WP/EDPB) – **guidelines** issued so far concern **data portability**, **DPOs**, **'Lead Authority'**, **DPIAs** and **administrative fines**.
- Final adoption of guidelines after **consultation of stakeholders**. Consultation just concluded on draft guidelines on **data breach notifications** and **profiling**. Ongoing consultation until 23rd Jan. 2018 on **consent** and **transparency**.
- Close dialogue with **Member States** on national implementation
- Commission's **implementing and delegated acts** (e.g. requirements for certification schemes)
- **Market-driven instruments** (e.g. codes of conduct)
- Setting up of a **multistakeholder expert group**

# International personal data transfers

## *ADDRESSING THE CHALLENGES OF GLOBALISATION*

- In today's 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
- 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!
- Privacy and security of data have become a central factor of consumer trust
- Promoting high standards of data protection contributes to free, stable and competitive commercial flows



## **HOW IS THIS ADDRESSED IN THE REFORM AND THE 10 JAN. 2017 COMMUNICATION?**

1. Clear rules defining **when EU law is applicable** (including to operators established abroad if offering goods or services in the EU)
2. A **renewed and diversified toolkit** for international transfers
  - Precise *criteria for adequacy decisions*, possibility of *partial or sector-specific* adequacy, new possibility to adopt *adequacy decisions in the law enforcement* sector. Adequacy is the most advantageous transfer mechanism: *transfers to the third country are assimilated to intra-EU transmissions of data*.
  - *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 enforcement (Art. 50 of GDPR)
4. A **strategic action plan** for international transfers (Communication of 10 Jan. 2017): at bilateral level renewed focus on adequacy (starting with Japan and Korea), at multilateral level promotion of convergence (in particular in the framework of Convention 108 of the Council of Europe)



**Thank you very much for your attention!**

- ***Questions, comments?***