



General Data Protection Regulation (GDPR)

@ DIDS 2018
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YESTERDAY. TODAY. BEYOND TOMORROW.



About eco

- eco is an Internet Industry Association
- more than 1000 members from 70 countries
- runs the DECIX
- eco's Names & Numbers Forum represents some 150 companies in the Domain Industry ranging from gTLD Registries (legacy and new), ccTLD Registries, Registrars, Consultants, Secondary Market

Starting Date

- On May 25, 2018, the GDPR will enter into force, see Art. 99 GDPR.
- As it is a European Regulation, it will apply throughout Europe immediately from this date.
- Other than directives, a regulation does not need to be transposed into national law.



You might say:

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Goals of the GDPR

The purpose of the Regulation is to regulate data protection in a uniform manner throughout the EU, to give EU citizens better control over their personal data and regulate how controllers may use personal data. On the other hand, it shall ensure free flow of personal data within the EU and to regulate the export of personal data outside the EU.

Some of the main themes are

- increased transparency requirements (documentation, information and proof)
- increased data security requirements
- increased accountability, such as a requirement to report breaches
- right to be forgotten
- right to data portability
- privacy by default
- privacy by design

Lawfulness of processing (Art 6 (1) GDPR)

Processing shall be lawful only if and to the extent that at least one of the following applies:

- (a) consent;
- (b) performance of a contract;
- (c) compliance with a legal obligation to which the controller is subject;
- (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

Lawfulness of processing (Art 6 (1) GDPR)

- (e) public interest or in the exercise of official authority vested in the controller;
- (f) legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.



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Sanctions

- The GDPR contains an extensive catalogue of administrative fines for violations of the various obligations.
- Depending on the breach, the GDPR provides for fines up to EUR 10,000,000 or 2% of global annual turnover (e.g. in case of not appointing a representative) or up to 20,000,000 or 4% of annual global turnover (e.g. in case of violating Art. 5, 6 or 7 GDPR), depending on the violation.
- According to Art. 58 (2) GDPR supervisory authorities can impose further sanctions such as skimming of profits, imposing a temporary or definitive limitation including a ban on processing or ordering the controller or processor to bring processing operations in compliance with the provisions of the GDPR.



At this point, you might say:

What wrong with this guy?

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To whom is the GDPR applicable?

- If your company is **established in the EU, the GDPR is applicable**, regardless of whether the data processing is taking place in the EU, see Art 3 (1) GDPR.
- Further, according to Art 3 (2) GDPR, the Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, when the processing activities are related to:
 - (a) the **offering of goods or services**, irrespective of whether a payment of the data subject is required, **to such data subjects in the Union**; or
 - (b) the monitoring of their behavior as far as their behavior takes place within the Union.
- A representative in the EU is required.
- Exception, if processing is only occasional.



Ok, you might say:

Now we're talking!

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How GDPR can affect you

- You offer services online to EU customers (EU languages, billing in EUR)
 - You're in!
- You develop software / offer IT services for customers in the EU (as a data processor)
 - Processors are also liable, not only data controllers

How GDPR can affect you (2) - WHOIS

- Are you a WHOIS customer?
 - IT Security company, researcher, LEA, lawyer?
- WHOIS will change substantially, for gTLDs registrant name, full address, mail address will likely not be published anymore



Better get ready!

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Thank you!

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