



# The Future of Privacy Regulation

An Analysis of the General Data Protection Regulation of the European Union

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# Agenda

- History and framework of the GDPR
- Summary of requirements
- Projections and controversies
- Q & A



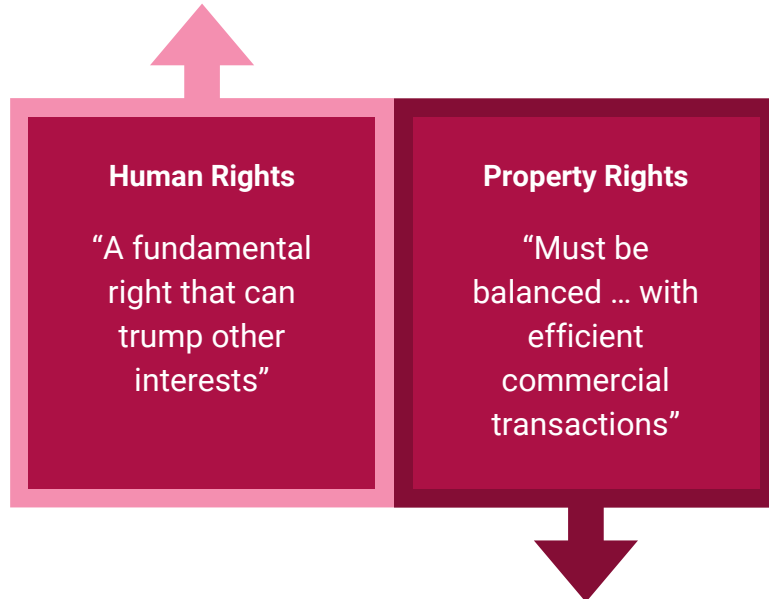
# I. History and Framework

Why now?

- ❖ EU legal framework on privacy
- ❖ Data Protection Directive (1995)
  - Accomplishments
  - Shortcomings
  - Controversies
- ❖ The Snowden Revelations
  - Repeal of Safe Harbor



# The Legal Framework



- ❖ Definition of personally identifiable information (PII)
- ❖ Legislative focus
- ❖ Regulatory structure



# The Data Protection Directive, 95/46/EC

## ❖ Accomplishments

- Established key concepts of privacy protection
  - Google Spain
- Streamlined cooperation with US firms
- Provided check-and-balance against government

## ❖ Shortcomings

- Inapplicability to emerging technologies
- Outmoded definition of PII
- Outmoded model of data processing
- Ineffective enforcement

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- ❖ New TOS  
*“These data processing terms will only apply to the extent that ... the processing is in context of the activities of ... [a] Customer in the EEA”*
  - ❖ Request to specify a ‘Data Protection Officer’



**Hi SoHyeon,**

As you may already know, the [EU General Data Protection Regulation \(GDPR\)](#) will be coming into effect on May 25th, 2018. Accordingly, we have made some changes to our [Terms of Service](#) and wanted to let you know about them!

The GDPR impacts companies both inside and outside of Europe, because the new regulations can govern the processing of personal data regardless of where it takes place.

We're pleased to announce that we've updated the Firebase [Terms of Service](#) to include [Data Processing and Security Terms \(DPST\)](#) for all of the Firebase services — effective May 25th, 2018. You can accept these updated terms today by visiting your project in the [Firebase console](#). Note that if you accepted an earlier version of the Data Processing Addendum for Google Analytics for Firebase, you will still need to accept these updated terms.



## II. Regulation Requirements

What changes?

- ❖ Key Changes
- ❖ Legal Requirements
- ❖ Technical Requirements
- ❖ Enforcement

01	Definition of Personal Data	<ul style="list-style-type: none"><li>• <b>DPD:</b> name, phone number, address, personal identification number</li><li>• <b>GDPR:</b> IP addresses, mobile device identifiers, geo-location, biometric data, genetic identity, economic status ...</li></ul>
02	Individual Rights	<ul style="list-style-type: none"><li>• Explicit opt-in for processing of data</li><li>• Right to access data</li><li>• Right to be forgotten</li></ul>
03	Scope and Jurisdiction	<ul style="list-style-type: none"><li>• Country of origin vs. Country of destination</li><li>• Data controller vs. Data processor</li><li>• Directive vs. Regulation</li><li>• Penalties for noncompliance</li></ul>

## Key Differences between the Data Protection Directive and the GDPR



1	The Right to Erasure	<ul style="list-style-type: none"><li>• Requires method to take a user ID and delete all information about the user, including backups. May be tricky for blockchain or tamper-evident data structures. Must also notify all processors.</li></ul>
2	The Right to Restriction from Processing	<ul style="list-style-type: none"><li>• Requires method to restrict processing, which can also be activated by the user.</li><li>• Requires separate checkboxes for each different processing.*</li></ul>
3	The Right to Data Portability and Rectification	<ul style="list-style-type: none"><li>• Requires user ability to export data and to edit their profile.</li></ul>
4	The Right of Access	<ul style="list-style-type: none"><li>• Requires user ability to view how and when their data was used</li><li>• Includes data collected from third parties or activities on the site</li></ul>

**Key Technical Requirements** (from the Oracle white paper and Bozho's tech blog)

# Key Technical Requirements

Data minimization, privacy-by-design, monitoring breaches and notifying users in a timely manner, centralization of data management, logging access to personal data, monitoring third party compliance, privileged access control, fine-grained access control...

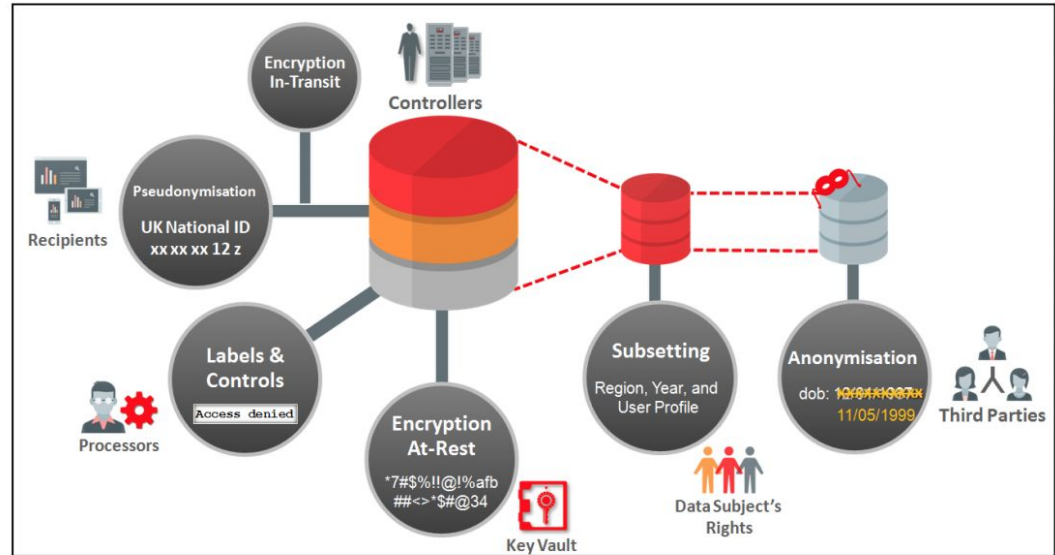


Figure 6: Oracle Database Security Preventive Controls

**69%**

of EU companies say they do not secure customer data effectively as of March 2018

- 90% of companies are familiar with the GDPR, compared to 20% in 2016

**32%**

of EU companies say they are well on the way of GDPR compliance

- 32% of companies cite 'lack of budget' as the primary challenge

**65%**

of EU companies for whom GDPR compliance is a top priority have a Data Protection Officer

- 49% of companies cited 'creating an inventory of user data' as the top priority



## III. Projections and Controversies

What will happen next?

- ❖ Changes to the legal ecosystem
- ❖ Economic impact and changes to business trends
- ❖ Jurisdictional complications
- ❖ Enforcement
- ❖ Disputes over individual rights

# Predicted Impacts

## Economic Impacts

Some predict increased consumer trust will foster fairer competition; others predict GDP will fall due to costs of compliance



## Increase in Litigation

Law firms predict an increase in class-action lawsuits, as not-for-profit bodies may sue on behalf of victims under the GDPR

## Localization of Data

We may see firms withdrawing from overseas data processors for the sake of compliance



# Key Disputes and Controversies

- ❖ Right to Protection from Automated Decision-Making
- ❖ Right to be Forgotten
- ❖ Jurisdiction and Enforcement

# Q & A

- ❖ Given the background information, what aspects of the regulation, enforcement, (non)compliance, response are you curious about?
  - ❖ Do you foresee any technical difficulties with GDPR compliance? (e.g., legacy systems)
  - ❖ What is your take on the controversies around the right to protection from automated decision-making, the right to be forgotten, or public-private partnerships?
  - ❖ Is the extensive and bureaucratic government regulation necessary to protecting privacy?
  - ❖ Will the GDPR be well-enforced? Will other countries follow suit?
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