



GDPR AND EU PRIVACY LAW – REPORTS FROM YEARS OF PREPARATION AND MONTHS OF ENFORCEMENT

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UT Cybersecurity CLE – Houston

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GDPR Background

- Complete revision of EU Data Privacy law
- Supersedes EU Data Protection Directive
- Creates new rights for Data Subjects and new obligations for companies
- Fines of “up to 4% of worldwide turnover”
- Few regulatory filings, but much more internal compliance effort required

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 April 2016

on the protection of natural persons with regard to the processing of personal data and on the free
movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)



GDPR: Scope of Application

- Cross sectoral – Omnibus law
- Processing of personal data
 - “Personal data” = all information that can be linked to an identifiable individual
 - IP addresses, machine identifiers, biometric data, information derived from personal data (e.g. analytics)
- Extra-territorial reach
 - Offering goods and services to individuals in the EU
 - Online tracking/monitoring of individuals in the EU



GDPR Enforcement Trends under the „Live“ Regulation



GDPR Enforcement Structure

- Regulatory enforcement: Data Protection Authorities (DPAs) of EU Member States
 - DPAs have broad powers to investigate and enforce sua sponte
 - Much DPA enforcement to date is based on complaints, breaches, or news
- Private enforcement: GDPR ensures private right of action for individuals
 - Special jurisdiction provisions enabling home forum
 - Material and „non-material“ damages can be claimed
 - Class action rights for nonprofit consumer organizations



Regulatory Enforcement

- Since May 25, 2018, DPAs have focused on advising and counseling
- DPAs are beginning to investigate the status of GDPR compliance
 - E.g., DPA of Lower Saxony recently issued GDPR Compliance Survey to large and mid-sized companies:
<https://www.alstonprivacy.com/german-dpa-announces-gdpr-compliance-survey-of-large-companies-translation-provided/>
- Expectation that large fines will not necessarily be levied in 2018, but expectations will harden going forward
- How DPAs are preparing for enforcement
 - Creation of enforcement departments
 - Expansion of staff
 - Creation of collaboration platform

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Title search: GDPR and EU Privacy Law: Reports from Years of Preparation and Months of Enforcement

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"The GDPR: Insights from Years of Preparation and Two Months of Enforcement"