



## **Privacy Reform in Europe:** **Q&A on the European Data Protection Regulation**

### **1) What is “data protection”?**

Personal data is any information relating to you, whether it relates to your private, professional, or public life. It can be anything from your name, a photo, an email address, bank details, your posts on social networking websites, your medical information, your religious beliefs, or in many cases, your IP address.

Under EU legislation the right to the protection of personal data is a fundamental right and is explicitly recognised by Article 8 of the EU's [Charter of Fundamental Rights](#) and by Article 16 of the [Lisbon Treaty](#).

In the online environment, where vast amounts of personal data are transferred and exchanged around the globe instantaneously, it is increasingly difficult for people to maintain control of their personal information. Almost everything you do online, from the websites you visit, to the links you click on, to the searches you make and the services and platforms you interact with, allow for the collection of data.

### **2) Why do we need data protection reform?**

There are three main reasons:

- The current data protection framework was adopted in 1995, when only 1% of Europeans had access to the internet. These rules are outdated and must be adapted to suit the challenges of today’s connected world.
- Differences in the way each EU country implements the 1995 Directive have led to uneven levels of protection for personal data, depending on where you live, or where you purchase goods and services. To ensure strong and consistent protections of your data, harmonisation is necessary.
- The Regulation is the implementation of now binding fundamental rights law, since the entry into force of the [Lisbon Treaty](#) and the adoption of the [EU Charter of Fundamental Rights](#). The Regulation will put these promises into practice.

### **3) What is the Data Protection Reform “Package”?**

The Data Protection Reform Package consists of two legislative instruments: a [Data Protection Directive](#) and a proposal for a [General Data Protection Regulation \(GDPR\)](#), proposed by the European Commission on the 25th of January 2012. The Regulation covers the protection and free movement of data in the European Union more broadly. The Directive on the other hand, deals with the processing of personal data by law enforcement authorities.

#### **4) What's the difference between a Directive and a Regulation?**

Both are EU legislative acts, however a Directive sets out a baseline standard, where implementation can vary in individual member states. A Regulation by contrast, is a piece of legislation that is directly applicable in every EU Member State -- meaning that each country will have the same law. This is particularly important given the fact that data travels across borders nearly seamlessly.

In this sense, it's not accidental that the Commission chose the Regulation as instrument to reform the 1995 Data Protection Directive, as this means that the data of European citizens will be protected no matter where you are located, in addition to a significant reduction of the administrative burdens for companies who must currently deal with many, often conflicting, jurisdictions. In fact, the Commission's impact assessment on the Regulation has shown that [the Regulation will save European companies 2.3 billion Euros in administrative costs per year!](#)

#### **5) Why is the Regulation important for all citizens?**

One of the main purposes of the Regulation is to give citizens greater control over their personal information. The Regulation does this in many ways, including:

- An explicit right to "data portability" which will make it easier for users to transfer data or entire accounts between service providers, in order to prevent customers from being "locked in" to any one service.
- Giving citizens the ability to clearly and explicitly consent to having their data collected and processed;
- Reinforcing the right to erasure, which will allow users to ask the deletion of their data if it is no longer needed by the company or public body;
- Broadening the definition of "personal data" and "data subject" to ensure comprehensive protection of citizens' personal information (particularly in the age of big data);
- For more details, [see why the Regulation is so important.](#)

## **6) What is the status of negotiations?**

Since the European Commission presented its proposal in 2012 and after nearly two years of negotiations, the Civil Liberties, Justice and Home Affairs (LIBE) Committee in charge of the file in the European Parliament, voted on 21 October, 2013 adopting [a package of compromise amendments](#) (their version of the the Data Protection Regulation).

While the Commission's proposal for a Regulation was certainly a good start, it required some further improvements (more details [here](#)). Despite the constructive work done by Parliamentarians, the final LIBE text contains dangerous loopholes, putting the privacy of citizens at risk. The text is now under review by the Council of the European Union (the representatives of the Member States) which is expected to come to a conclusion before the end of summer 2014.

## **7) What are the dangers in the negotiations process?**

Since the European Commission proposed the Data Protection Reform Package back in 2012, the Regulation has been under constant [attack by large companies and other countries](#) who seek to weaken your privacy rights. In the worst case scenario, the companies will convince policy makers in Brussels to weaken the Regulation, effectively undermining our privacy rights.

It is now up to Council of the EU to address the remaining loopholes in the text, ensuring that citizens in the EU will have comprehensive protection over their personal data. However, recent meetings have shown that the Council is making [very slow progress](#) on this file, putting the adoption of this reform package in jeopardy. On the occasion of Data Privacy Day, on February 28th, Access, together with a coalition of international and European NGOs, sent [a letter](#) to the Council representatives calling for a swift adoption of updated and expanded data protection rules. It is yet to be seen whether the Council will address the pressing challenges facing citizens with regards to the protection of their privacy by moving forward with this agenda without further unnecessary delays.

## **8) When will it be adopted?**

On March 11, 2014, the European Parliament as a whole is expected to confirm the position adopted by the LIBE Committee in a plenary vote. It then is estimated that the Council of the European Union will come to a conclusion before Summer 2014. Shortly after, all three EU institutions (Parliament, Council and Commission) will need to come to an agreement on the text for it to become law. The actual implementation would occur roughly two years later, in 2016.

*For more information, please visit <https://www.accessnow.org/policy/data-protection-reform> or contact Access' European Policy Manager, Raegan MacDonald, at [raegan\[at\]accessnow.org](mailto:raegan[at]accessnow.org)*