



A European Data Protection Framework for the 21st century

Safeguarding Privacy in a Connected World *

Giorgos Rossides
Policy Officer, DG JUSTICE

* The positions expressed in that document do not in any way constitute an official position of the European Commission



Presentation overview

- **Why change our data protection rules?**
- **Policy objectives**
- The Data Protection **Reform Package**
- The **way forward**



VP Reding's message



"Personal data is the currency of today's digital market. And like any currency it needs stability and trust."

Viviane Reding

*Vice President for Justice,
Fundamental Rights and
Citizenship*



Why change the rules on data protection?

- **New challenges** for the protection of personal data (**globalisation, new technologies**)
- **Institutional changes** (Lisbon Treaty)
- Problems for **individuals**
- Problems for **business**
- Problems for **law enforcement authorities**





Institutional changes: Lisbon Treaty

- **Article 8 of the EU Charter of Fundamental Rights**
 - defines the basic principles for the protection of personal data
 - becomes legally binding
- **Article 16 TFEU:** new legal base
ordinary legislative procedure (EP, Council) for the adoption of rules on the processing of personal data by
 - Union institutions, bodies, offices and agencies, and
 - Member States when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

⇒ includes ex-third pillar





Problems for individuals

- **Insufficient awareness, loss of control and trust, particularly in the online environment:** 75% of respondents in recent Eurobarometer say they have only partial or no control of their data online. 2 in 3 citizens say they are concerned about this.
- **Difficulties in exercising data protection rights:** difficulties to exercise legal right of access to one's personal data; difficulties to have one's data deleted; difficulties to access effective remedies; difficulties to withdraw and transfer personal data from an application or service ("data portability")





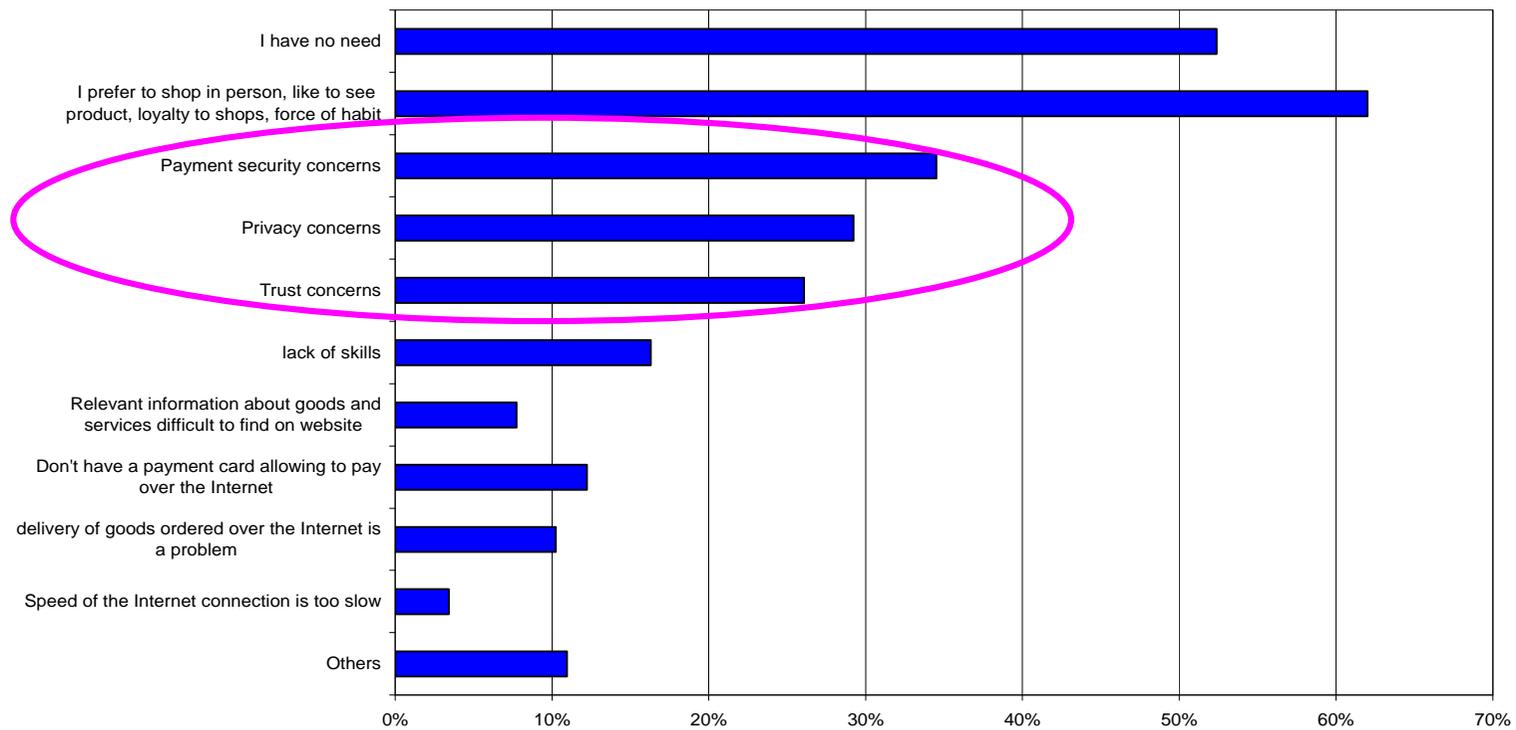
'Digital' data protection problems for individuals

- **Insufficient control and awareness (e.g. behavioural adverts) over personal data**
- **Inadequate access to personal data, including the right to be forgotten (e.g. social networking)**
- **Frequent breaches of data security (e.g. recent high profile cases involving millions of individuals)**
- **Inconsistent enforcement of DP rules across the EU (e.g. recent case of online mapping service)**
- **Lack of clarity on whether an individual is protected if data is processed by company/authority outside the EU (e.g. cloud computing; counter-terrorism)**



Lack of confidence - ecommerce

Reasons for not buying online (% of individuals that have not ordered online during last year), 2009





Technological Challenges for the protection of personal data

The challenge of technology, globalisation and societal change

Globalisation
Internet
Online social networking
E-commerce
Online databases
Electronic health records
Cloud computing
RFID
Face recognition
Role of DPAs

Geo-location
Video surveillance
Profiling
Behavioural advertising
Biometric data
Genetic data
Law enforcement
Security breaches
Identity theft
Nanotechnology
Governance





Problems for business and public authorities

- **Fragmentation and legal uncertainty:** costs of legal fragmentation within Internal Market estimated to almost EUR 3 billion per annum for businesses trading cross-border.
- **Inconsistent enforcement** of DP rules across the EU: lack of level playing field on compliance and enforcement between MS, accentuated by divergences in powers and resources in national DP authorities, and lack of effective co-operation between them.
- **No regulatory powers for the Commission** – no possibility for implementing measures to enhance harmonisation





Policy Objectives

- Enhance the **internal market dimension** of data protection, by reducing fragmentation, strengthening consistency and simplifying the regulatory environment;
- Increase the effectiveness of the fundamental right to data protection and put **individuals in control of their personal data**;
- Improve the coherence of the EU data protection framework, including in the **field of police cooperation and judicial cooperation in criminal matters**, taking full account of the entry into force of the Lisbon Treaty.





The Data Protection Reform Package

1. Chapeau Communication
2. *“General”* Data Protection Regulation
3. *“Police”* Directive





Data Protection Regulation

Regulation of the European Parliament and of the Council on the protection of individuals with regards to the processing of personal data and on the free movement of such data (General Data Protection Regulation)





Data Protection Regulation

- **Replaces Data Protection Directive 95/46/EC**, which was the centrepiece of EU legislation on personal data protection
- **Objectives:** to protect the fundamental right to data protection and to guarantee the free flow of personal data between Member States
- **DP Regulation maintains the same objectives**





Data Protection Regulation – Main Changes

RULES FIT FOR THE DIGITAL SINGLE MARKET

- Regulation is directly applicable and **removes legal fragmentation**, saving enterprises approximately **EUR 2,3 billion per annum** in administrative burden only
- **Cutting red tape** (e.g abolishing notifications, which are estimated to cost EUR 130 million per year, without much added value in terms of data protection)
- **One-stop shop system** for data protection in the EU: only one DPA checks compliance of a business, regardless of how many MS the business may be active in.
- **Better enforcement** and more **level playing field** through stronger national DPAs

=> SIMPLER AND MORE FLEXIBLE RULES BOOSTING CONFIDENCE, GROWTH, INNOVATION





Data Protection Regulation – Main Changes

PUTTING INDIVIDUALS IN CONTROL OF THEIR DATA

- **Better information** to individuals about data processing
- **Consent** to be given **explicitly**, whenever this may be required
- Enhance “**right to be forgotten**”
- **Clearer rights** of access to individuals
- Generalise data **breach notifications**
- Reinforced **data security** obligations on controllers
- **Strengthened** national **DPAs**
- Enhanced and dissuasive **administrative** and **judicial remedies** for breaches of DP rights

=> STRONGER DP RIGHTS IN THE DIGITAL ECOSYSTEM





Data Protection Regulation – Main Changes

IMPROVEMENTS IN DATA PROTECTION GOVERNANCE

- **Swifter and more efficient cooperation between DPAs:** mutual recognition of decisions between DPAs, obligation for one DPA to carry out investigations and inspections upon request from another;
- **EU level “consistency mechanism”:** ensures that DPA decisions with wider European impact take full account of views other concerned DPAs, and are fully in compliance with EU law;
- Article 29 Working Party becomes **an independent European Data Protection Board:** improves its contribution to consistent application of rules; provides a strong basis for cooperation between DPAs, including the European Data Protection Supervisor.





DATA PROTECTION IN A GLOBALISED WORLD

FACILITATING LEGITIMATE INTERNATIONAL TRANSFERS OF PERSONAL DATA

- **Clearer rules** defining when **EU law is applicable to data controllers established in third countries**;
- **Clearer rules and criteria for adequacy decisions**, including in the area of police cooperation and criminal justice;
- Easier international transfers of data through streamlined **rules on transfers to countries not covered by an adequacy decision (e.g. extending the use of tools such as **Binding Corporate Rules**, “**accountability**” of data controllers)**;
- **Dialogue** and, where appropriate, **negotiations**, with third countries – particularly EU strategic partners – and relevant international organisations to **promote high and interoperable data protection standards** worldwide.





The way forward

- **Council** – 18 months of meetings so far on draft reform package under **three Presidencies**
- **EP advancing its deliberations, voting after summer on 'Albrecht Report'**
- **Commission** to maintain a **close and transparent dialogue with all interested parties** involving representatives from the private and public sector (police and the judiciary, electronic communications regulators, civil society organisations, DPAs, academics, specialised EU agencies such as Eurojust, Europol, the Fundamental Rights Agency, and the European Network and Information Society Agency).





Summing up

- The EU data protection reform package **aims to build a modern, strong, consistent and comprehensive data protection framework** for the European Union.
- Individuals' fundamental right to data protection **will be reinforced, particularly in terms of fostering their trust in the digital environment.**
- It will **simplify the legal environment for businesses** and the **public sector**, stimulating the development of the digital economy across the EU's Single Market and beyond, in line with the objectives of the Europe 2020 strategy and the Digital Agenda for Europe.





Thank you for your attention

ec.europa.eu/justice
ec.europa.eu/justice/data-protection-reform

george.rossides@ec.europa.eu