Cloud Services and Data Protection

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Frankfurt, 26 February 2016

The EDPS Strategy

2015-2019

Leading by example

Outline

1. What is the EDPS
2. Where is the Data Protection Reform, and what is next?
3. Engineering data protection
4. (some) EU Cloud initiatives

The work of the EDPS: Who we are, what we do and how we do it…

The EDPS

The EU's independent data protection authority

EDPS

EUROPEAN DATA PROTECTION SUPERVISOR

The EDPS

The **European Data Protection Supervisor**: an independent institution responsible for ensuring the protection of personal data by the EU institutions and bodies

Giovanni Buttarelli
EDPS

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Assistant EDPS

The EDPS

1.**Supervise** data processing done by EU institutions and bodies;

2.**Advise** the EU legislator and appear before the EU courts;

3.**Monitor** new technologies with an impact on privacy;

4.**Cooperate** with other supervisory data protection authorities.

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Vision: help the EU lead by example in global dialogue on data protection and privacy in the digital age. 3 strategic objectives:

> ➢ ***Help data protection go digital***
> ➢ ***Forge global partnerships***
> ➢ ***Open new chapter for EU data protection***

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2015-2019

What is "personal data"?

any information relating to an identified or **identifiable** natural person (*data subject*);
an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her physical, physiological, mental, economic, cultural or social identity.

YOUR FACE HERE

8

Two fundamental rights

Privacy

Data protection

Art. 8 ECHR (1950): "Everyone has the right to respect for his or her private and family life, home and correspondence "

Article 7 EU-Charter (2000): "… and communications"

Article 8 EU-Charter
Article 16 TFEU
"Everyone has the right to the protection of personal data concerning him or her."

Data Protection Reform

Visit www.edps.europa.eu
for more information

Data Protection Reform "Package"

European Commission

Public consultation (May-Dec 2009)

Communication *(COM(2012) 9 final)*

(4 November 2010)

Commission proposals - 25 January 2012 :

- ***"General" Data Protection Regulation***
- *(COM(2012) 11 final)*
- ***Directive for police and criminal justice authorities*** *(COM(2012) 10 final)*

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General Data Protection Reform State of play

European Parliament
Thousands of amendments later,
plenary report adopted 12 March 2014

Council of Ministers
'General approach'
Agreed on 15 June 2015

Trilogue
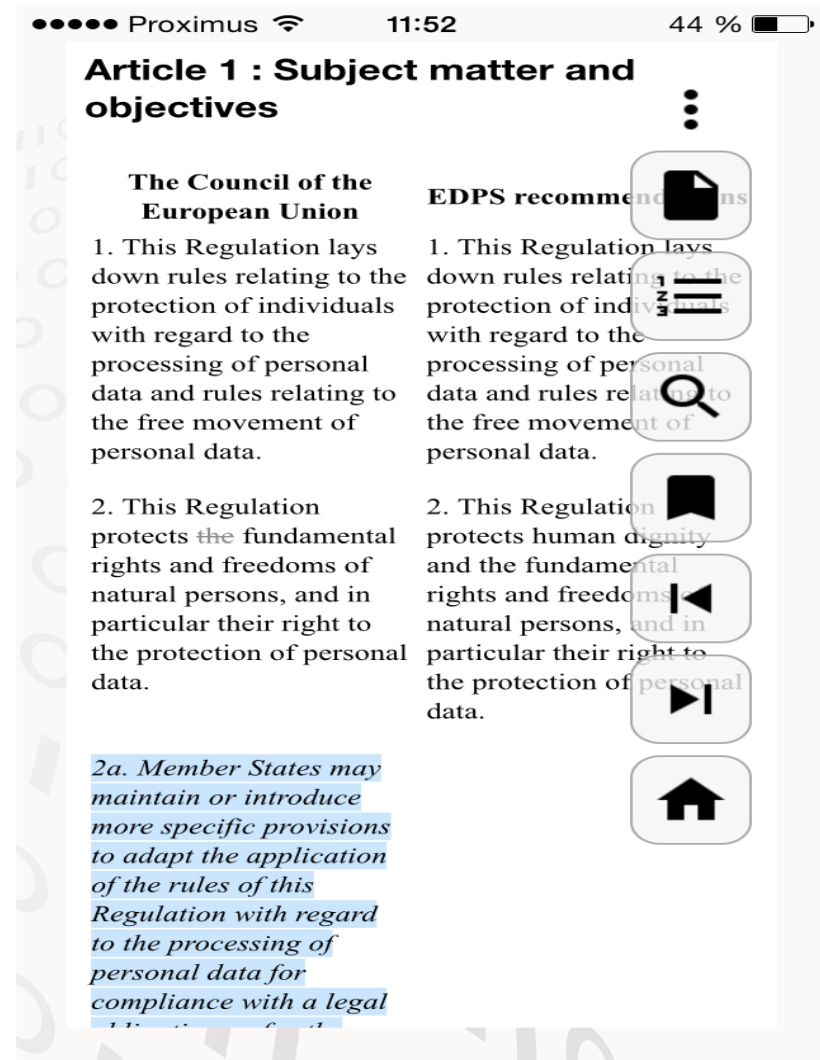Started in June 2015
Target end 2015/I. Q 2016

EDPS position on GDPR

Opinion 3/2015 of
27 July 2015

**Red lines for data
protection**

**Full text suggestion
(4-column table)**

**Presentation by
tablet/smartphone app
(iOS, Android versions)**

Towards a compromise

- European Commission: 25 January 2012 – package proposals Regulation (GDPR) and Directive (DPD) ⊣ Nov 2010, Commission Communication: "A comprehensive approach on personal data protection in the European Union"
- European Parliament: 12 March 2014 EP First reading based on LIBE Report of 21 October 2013:
    - GDPR: 621 yes / 10 no
    - DPD: 371 yes / 276 no
- Council:
    - 15 June 2015: General Approach on the General Data Protection Regulation (GDPR) (Austria and Slovenia dissented)
    - 9 October 2015: General Approach on the Data Protection Directive (DPD) (Austria dissented)
- Start of trilogues:
    - GDPR: 24 June 2015
    - DPD: 27 October 2015

Timetable

- 12 March 2014: EP First reading on the GDPR

- 15 June 2015: Council General Approach on the GDPR

- 24 June 2015: First trilogue session preceded by an EP shadow meeting on 18 June

Negotiations during trilogues

- Final trilogues on 15 December in Strasbourg:
    - 14:00 to 20:00 : GDPR
    - 20:30 to 21:30 : DPD
- Coreper on 16 December approved the results of the trilogue negotiations
- Vote in LIBE on 17 December approved the trilogue negotiations:
    - GDPR: 48 +, 4 - , 4 o
    - DPD: 53 +, 2 -, 1 o
- Coreper on 18 December endorsed final agreement

Next steps

- Early second reading: Council is chef de file
- Translation and review (6-8 weeks)
- (Council Document 5455/16 – 24 langages raw)
- Council to adopt first reading (April 2016?)
- EP to receive Council first reading (announced in plenary April 2016?)
- LIBE: vote on a draft recommendation on the Council first reading to be transmitted to the Plenary for a final vote (max 3 months + 1 month to do it).
- Application 2 years from entry into force

Regulation 45/2001

- Art 2: For the processing of personal data by the Union institutions, bodies, offices and agencies, Regulation (EC) No 45/2001 applies.
- Regulation (EC) No 45/2001 and other Union legal instruments applicable to such processing of personal data shall be <u>adapted to the principles and rules</u> of this Regulation in accordance with Article 90a
- + Recital 14a...<u>and applied in the light of this Regulation</u>.

Review of other EU data protection instruments (Art 90a)

- The Commission shall, if appropriate, submit legislative proposals with a view to amending other EU legal instruments on the protection of personal data, in order to ensure uniform and consistent protection of individuals with regard to the processing of personal data. This shall <u>in particular concern the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies and on the free movement of such data.</u>

ePrivacy Directive 2002/58/EC

- Complements and particularises 95/46/EC
- Difficult to connect with GDPR
- REFIT exercise
- Public consultation in early 2016
- Change of technologies and business models
- Gaps of protection?
- Equal playing field?

Technology related provisions

- Data Protection by design/by default (Art 23)
  - […]the controller shall, […] implement appropriate technical and organisational measures, such as pseudonymisation, which are designed to implement data protection principles, such as data minimisation, in an effective way and to integrate the necessary safeguards into the processing in order to meet the requirements of this Regulation and protect the rights of data subjects [TA]
- Security of Processing (Art 30)
- Codes of Conduct (Art 38)
  - Associations and other bodies representing categories of controllers or processors may prepare codes of conduct, or amend or extend such codes, for the purpose of specifying the application of provisions of this Regulation, such as : (bb) the pseudonymisation of personal data [TA]

EU Cloud initiatves
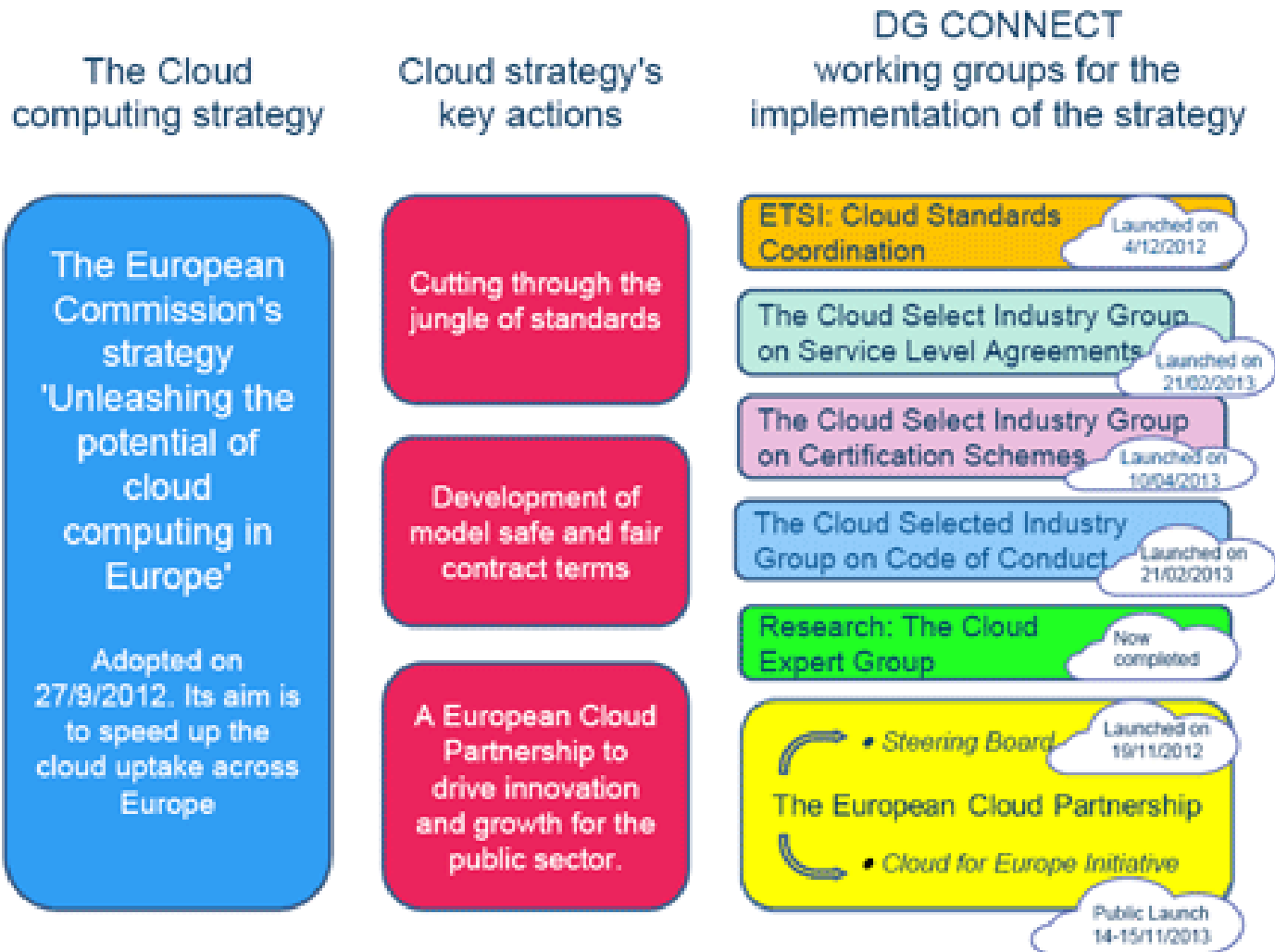
Some Cloud services investments

Technology & law in the EU
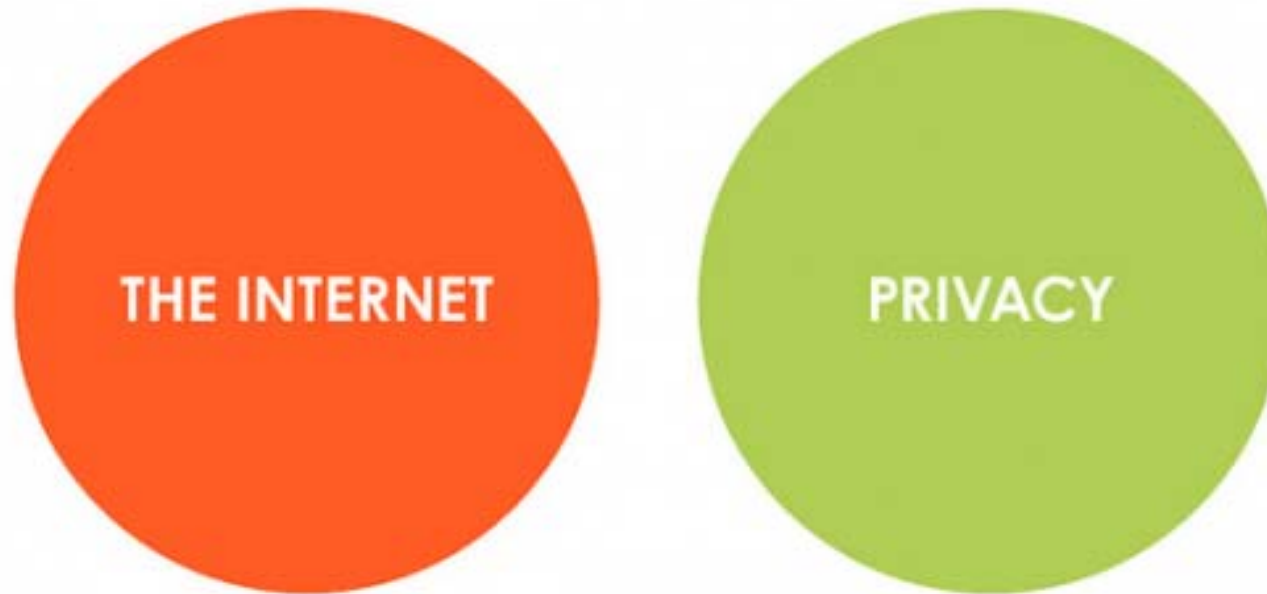
1995

1990 Directive 95/46

1981 UK Computer Misuse Act

1978

1970

Challenges to Privacy

THE INTERNET   PRIVACY

A HELPFUL VENN DIAGRAM

The Challenge

Privacy and security must become design goals for IoT (and other) devices at all levels:
- **Protocols**
- **Operating systems**
- **HW**
- **User interfaces**
- **Applications**

In real-life development, existing building ~~blocks~~ reused as they are available, often designed without privacy in mind. Developers do not have time and resources to re-develop existing tools, and poor privacy propagates into new applications.

Internet Privacy Engineering Network (IPEN)

- The 2013 revelations served as a wake-up call and many developers at all levels are willing to invest in better privacy tools (IETF Vancouver).
- Privacy experts search for more cooperation with developers.
- Several groups have set up initiatives for privacy aware (re-)engineering of Internet services and application building blocks (examples):
    - IETF protocol reviews and IAB privacy group
    - OWASP 10 top privacy risks projects
    - *Open source initiatives*
- IPEN to collect information, connect groups, identify use cases, encourage and enable working teams.
- Volunteers welcome!

IPEN State of Play

- Started in spring 2014 with mailing list and web site
- First workshop September 2014 in Berlin
- More cooperation partners (~200 participants)
- DPAs, Academia, industry, civil society
- Second workshop June 2015 in Leuven
- In preparation:
  - Resources web site
  - Strategy review
  - Conferences
  - Event 2016

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Data protection goes digital

- Work with IT developer communities
- Promote development of privacy friendly building
- Expand IPEN
- Provide guidance to developers
- Work with academia and researchers

Thank you!

For more information
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