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# Personal data protection in Europe – an update

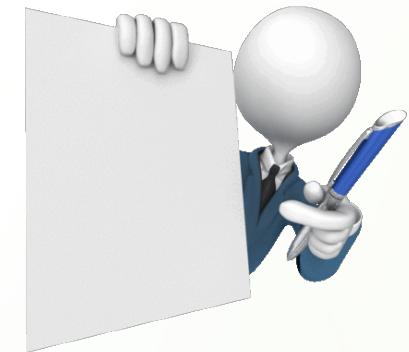


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# Summary of presentation

- Some (subjective) views on the problem today with European data protection
- The new regulation – selected issues
- New ECJ decisions
  - Safe Harbour
  - Weltimmo
  - Bara

# A few important terms

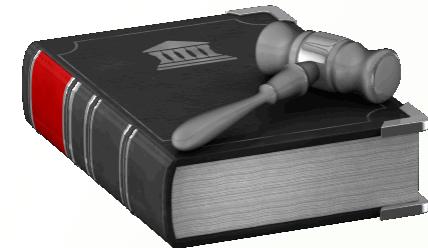


- **DPA – data protection agency**
- **Data controller**
  - natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data
- **Data processor**
  - natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller

# Issues today

- Not a uniform definition of personal data
  - Very broad definition in directive
  - Meant to be restricted by national law, but...
  - This affects geographic information
- Transfer outside Europe depends on agreements
  - Safe harbour has been criticised from the start
- Different practices from different national DPAs

# New regulation



- **Recognizing the issue**
  - The objectives and principles of Directive 95/46/EC remain sound, but it has not prevented fragmentation in the way data protection is implemented across the Union...
  - Differences in the level of protection of the rights and freedoms of individuals... may prevent the free flow of personal data throughout the Union. These differences may ... distort competition and impede authorities in the discharge of their responsibilities

# Some proposals



- **Individuals**
  - Right to be “forgotten”
  - Right to portability without commercial constraints
  - Limits use of profiling
- **Data controller issues**
  - Increased data protection demands and subsequent responsibility
  - New regulations on data processing outside EU
  - Adequacy decisions on transferring data
  - Pseudonymisation, as well as anonymisation
  - Data protection officer
- **European Data Protection board**

# ECJ recent court cases



- **Safe Harbour**
  - Leaves the companies to get an arrangement with national DPAs
- **Weltimmo**
  - DPA has jurisdiction for “own” data everywhere
  - “Real and effective activity”
  - Can’t go «shopping» for DPAs
- **Bara**
  - Transfer of personal data between public administrative bodies requires the individual to be informed in advance

# Issues for NMCA



- **Geographic information as personal data**
  - Many countries have seen mapping and address data as anonymised data, but not all
  - Some consider cadastre data too important not to be openly available, but not all
  - Different practices may hinder European exchange of geographical information
- **If you can't anonymise data, can you pseudomise data?**
  - Example: address data
- **Safe harbour: no more shopping for cheap clouds?**

