

# The Main Components of the European Data Protection Law

## EU

## Conseil de l'Europe

| Source  | EU (27 Member States since the departure of the UK)  | Council of Europe (47 Member States)   |
|---|--|--|
| <b>Nature of the right to Data protection</b> | <p>An Autonomous Fundamental Right provided by art. 8 of the Charter of Fundamental Rights of the EU</p> <ol style="list-style-type: none"> <li>1. Everyone has the right to the protection of personal data concerning him or her.</li> <li>2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.</li> <li>3. Compliance with these rules shall be subject to control by an independent authority.</li> </ol>  | <p>Art. 8 of the European on Human Rights</p> <ol style="list-style-type: none"> <li>1. Everyone has the right to respect for his private and family life, his home and his correspondence.</li> </ol> |
| <b>Data Protection Rules</b>                  | <p>Directive 95/46 EC</p> <p>General Data Protection Regulation (GDPR)</p> <ul style="list-style-type: none"> <li>• repealed the Directive 95/46</li> <li>• is applicable from 25 May 2018</li> <li>• implied national adaptations (done except in Slovenia)</li> </ul> <p>Directive 680/2016 related to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data</p> <p>implied a transposition</p> <p>Regulation 2018/1725 related to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data</p> | <ul style="list-style-type: none"> <li>• Convention 108 (1981) **</li> <li>• Additional Protocol (2001) ***</li> <li>• Convention 108 + (signed in 2008, under ratification) ****</li> </ul>           |
| <b>Scope</b>                                  | <p>The GDPR has direct effect in the European Economic Area*</p>   | <p>The Convention 108 is open to the ratification of third countries. The Convention 108 foresees the possibility of the accession of the EU</p>   |

\* EEA : 27 EU Member States and Liechtenstein, Norway, Island

\*\* Status as of 26/06/2020 : The Convention 108 has been ratified by 55 States (27 EU Member States, UK, 4 Member States of the EFTA, San Marin, Monaco,, Armenia, Russia, Ukraine, Georgia, Moldavia, Turkey) and 8 third-countries of the Council of Europe: Argentina, Burkina Faso, Cabo Verde, Mauritius, Mexico, Morocco, Senegal, Tunisia, Uruguay.

\*\*\* Status as of 26/06/2020, The Additional Protocol applies in 43 States (22 EU Member States, Belgium, UK, Italia, Slovenia, Malta and Greece have not yet ratified) whereas the protocol is ratified in the 8 third-countries which ratified Convention 108.

\*\*\*\* Status as of 26/06/2020 : 5 ratifications (Bulgaria, Croatia, Lithuania Poland, Serbia), 33 signatures (including all EU Member States except Denmark, Malta, Romania)

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