



# Keynote speech for session "Global Personal Data Protection Policy Trend"

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## Introduction

Globalisation is a daily routine for everyone, but for the online world, which has so quickly become so pervasive in our lives, we are only just beginning to understand the safeguards that are needed.

Both globalisation and its corollary on online connectivity depends on instantaneous, international flows of personal data. In Europe we are modernising our legal frameworks and preparing a new generation of rules which are intended to be fit for the digital age.

So now is the opportunity for all democratic countries across the world to build partnerships on responsible data processing based on common values.



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This is why I particularly welcome the organisation of this Seminar, which brings together regulatory and enforcement experiences from the EU and Korea and will help us learn more about our respective legal frameworks and practices.

## **The new EU data protection framework**

My role is to ensure that EU institutions and policy makers protect the fundamental rights and in particular those to privacy and data protection. I also act as advisor to the EU legislators in the area of data protection and privacy.

A Copernican revolution is occurring in the EU legal framework for data protection.

The new General Regulation on Data Protection has probably been one of the most negotiated EU laws ever, with three years of difficult negotiation rounds and publication on 4



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May this year. The new framework will become fully applicable in May 2018.

Let me highlight just a few trends in the European Union General Data Protection Regulation which are relevant for today's discussion.

The Regulation will clearly apply where organisations or companies are not established in the EU but offer goods and services to individuals in the EU or monitor their behaviour. This is, I believe, very similar to the approach by Korean regulatory authorities who have applied Korean legislation to foreign organisations targeting Korean users.

Current EU rules already provide for international transfers of personal data that might be necessary in a trade context, on condition that the country of destination is deemed to ensure an adequate level of protection.



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The new rules continue maintain this rule that data can be transferred to a third country if the European Commission has taken a decision according to which the country provides for an adequate level of protection.

I am sure you are familiar with the Commission adequacy decision on the EU-U.S. Privacy Shield, announced on 12 July by EU Justice Commissioner Věra Jourová and U.S. Secretary of Commerce Penny Pritzker.

Adequacy decisions, as general solutions for transfers from the EU, are welcomed. But experience shows us that they have to be comprehensive and solid enough to last and provide legal certainty to individuals and organisations in the long term. This is the message I gave in my Opinion on the draft decision, in which I also proposed solutions to improve the framework.



In the absence of a Commission decision on adequacy of the third country, a controller or processor may transfer personal data to a third country only if adequate safeguards are in place and on condition that enforceable data subject rights and effective legal remedies are available for the individuals.

The EU data protection authorities have been given greater powers and notably serious sanctioning powers with the possibility to impose fines of up to 4% of global annual revenue to companies that do not comply with the legal framework. This provision should make an impact in executive board rooms, but whether it will make an impact depends on how data protection authorities implement it and how effective cooperation between authorities across the world will be.

## **Cooperation between authorities**

At the recent Spring Conference of the European Data Protection Authorities in Budapest, Hungary this year, a resolution was adopted on new frameworks of cooperation.



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It underlines the importance of cross border cooperation between authorities and calls upon the European data protection authorities for closer, more proactive and effective cooperation. It also reminds the data protection authorities on the necessity of practical and innovative approach including greater dialogue and information sharing with other regulatory bodies responsible for safeguarding the rights and interests of the individual in the digital society and economy.

The recent signature by the Korean Information Security Agency of a Memorandum of Understanding with the US FTC and other foreign agencies to combat unsolicited messages and calls is good example of this cross border, cross sector cooperation. We also see the cooperation between the different authorities in South Korea as an example of joint efforts of enforcement by various authorities.

Very soon we will publish a new EDPS Opinion on the need of an effective enforcement of fundamental rights in the age of big data at the EU level. As already mentioned in a



preliminary paper on this topic in 2014, we will argue at the EDPS that coordination between regulators and cooperation between enforcers are of paramount importance in the age of big data and call for a joint enforcement.

It implies the authorities' willingness to share information on relevant and cross-sectorial cases, it requires them to talk to each other, to take the individual rights into account, to look at the broader picture, to share expertise and best practices.

But in a world where data flows have no apparent borders, cooperation at a bilateral or even at regional level is not enough. In this perspective, I would like to highlight the work of the International Conference of Privacy and Data Protection Commissioners, in which both the EDPS and Korea, represented by the Information Security Agency and the Personal Information Protection Commission, are active members. In this framework, the acceptance of a Global Cross Border Enforcement Cooperation Arrangement shows the real potential for world-wide cooperation. And like the



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EDPS, Korea is also engaged in the Global Privacy Enforcement Network.

Despite multiple regulatory, procedural and even constitutional differences regarding privacy and data protection around the globe, supervisory authorities share common objectives, common values and common enforcement experiences. We need to further build on them to address the challenges of today's hyper-connected reality. In this respect, we are very curious to learn from your experience both with other foreign agencies and amongst yourselves.

Finally, I would like to mention the upcoming possible change in EU membership. You have all heard about the referendum in the UK and the triggering of Article 50 of the EU Treaty. It is a challenge for the EU, the first of its kind. But I am sure we will overcome it and use this experience as an opportunity to improve and reinforce the Union. And I will borrow the words of Nietzsche here: "what does not kill you makes you stronger".