



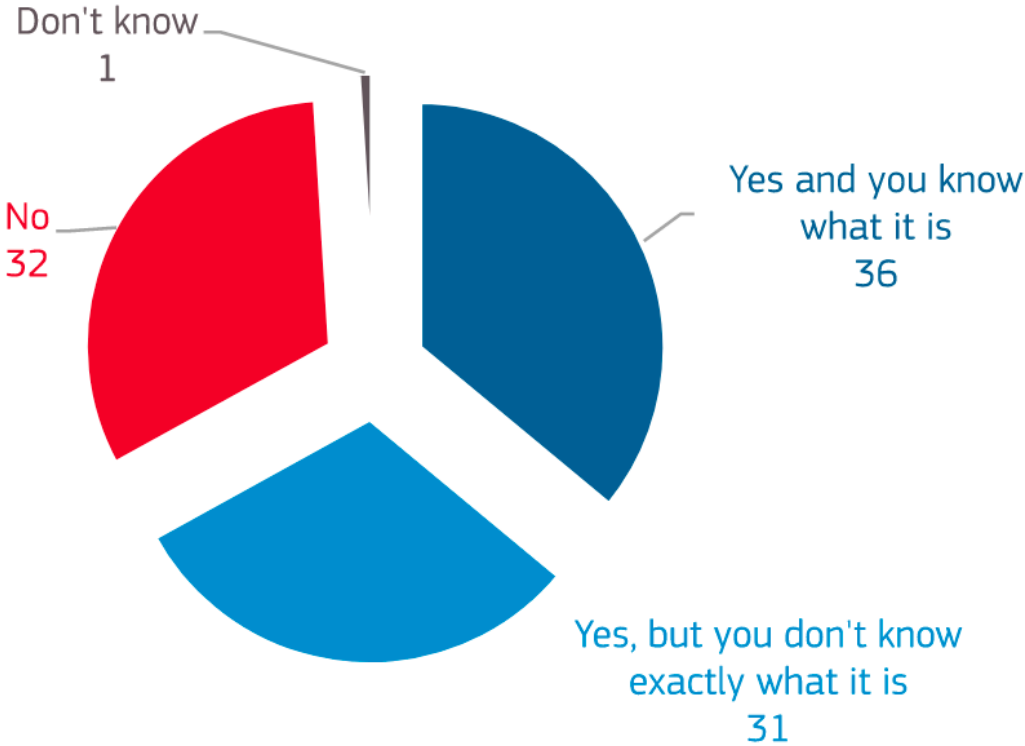
Introducing the Data Protection Officer (DPO)

Prof. Dr. Gloria González Fuster



<https://ggonzalezfuster.blog/2018/03/01/another-privacy-surveillance-playlist/>

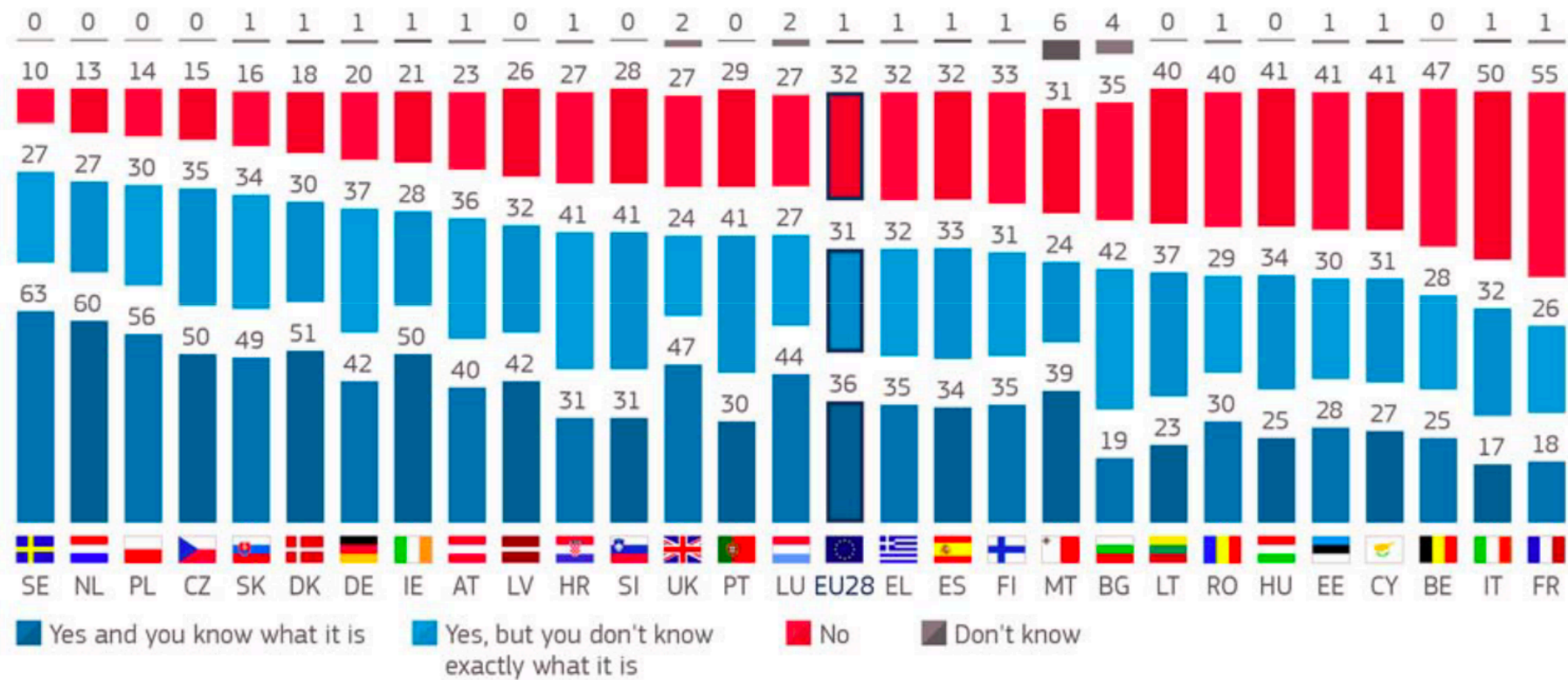
QB17 Have you heard of the General Data Protection Regulation (GDPR), which came into force in 2018? (% - EU)



Base: all respondents (N=27,524)

Special Eurobarometer487a

QB17 Have you heard of the General Data Protection Regulation (GDPR), which came into force in 2018?
(%)



Base: all respondents (N=27,524)

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 April 2016

on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Article 7

Respect for private and family life

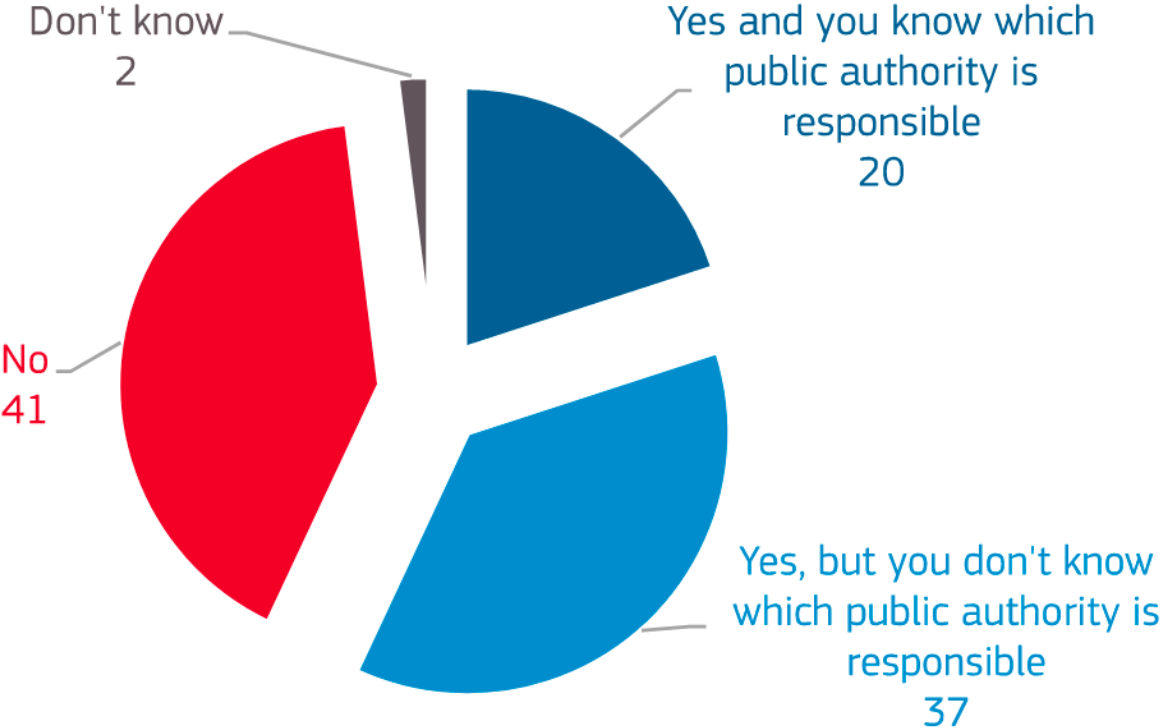
Everyone has the right to respect for his or her private and family life, home and communications.

Article 8

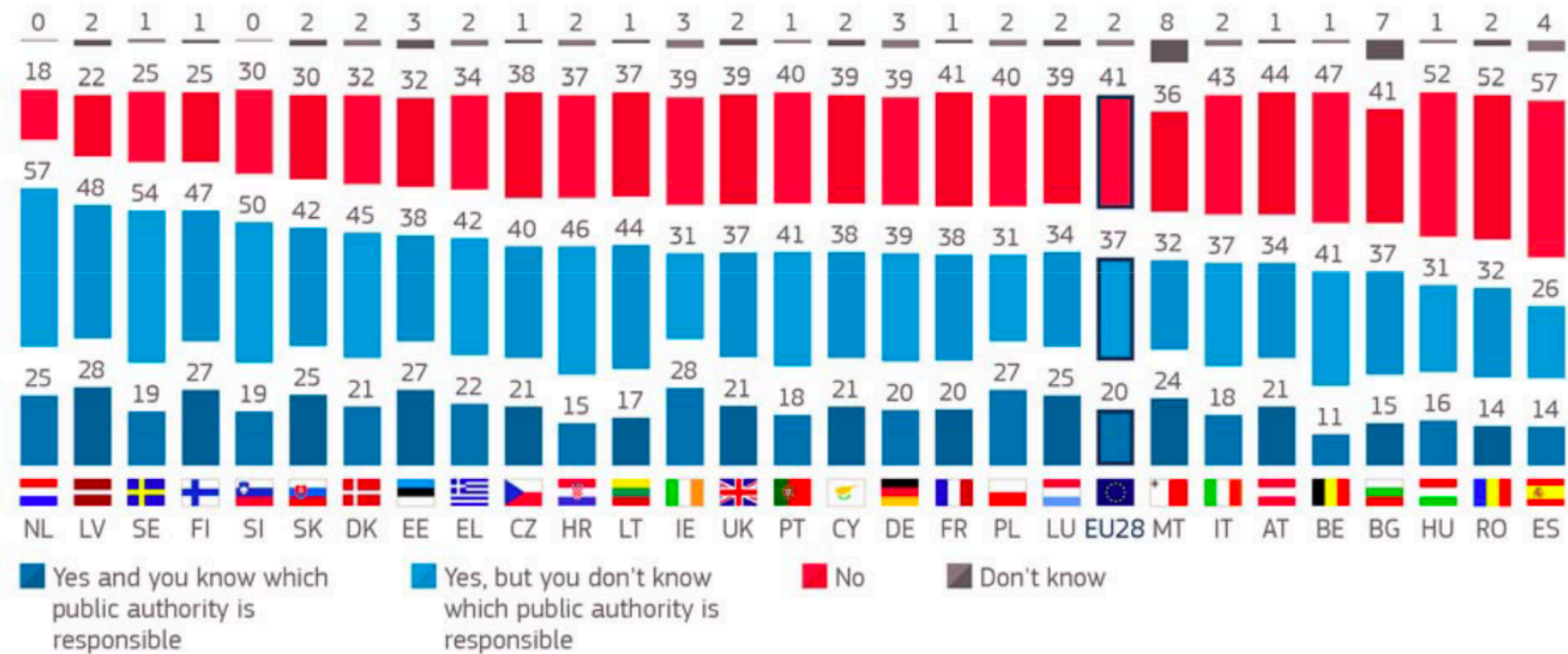
Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.
 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.
 3. Compliance with these rules shall be subject to control by an independent authority.
-

QB16 Have you heard about the existence of a public authority in (OUR COUNTRY) responsible for protecting your rights regarding your personal data? (% - EU)



QB16 Have you heard about the existence of a public authority in (OUR COUNTRY) responsible for protecting your rights regarding your personal data?
(%)



Base: all respondents (N=27,524)

Alan F. Westin

**PRIVACY &
FREEDOM**

'An extremely important book on the use in America by government agencies, business firms and private detectives, and even by the general public, of the most elaborate devices for intruding on privacy. It is a nightmare picture.'
GRAHAM GREENE

With a foreword by Louis Blom-Cooper

RECORDS, COMPUTERS, AND THE RIGHTS OF CITIZENS



Here then is the nub of the matter. Personal privacy, as it relates to personal-data record keeping must be understood in terms of a concept of mutuality. Accordingly, we offer the following formulation:

An individual's personal privacy is directly affected by the kind of disclosure and use made of identifiable information about him in a record. A record containing information about an individual in identifiable form must, therefore, be governed by procedures that afford the individual a right to participate in deciding what the content of the record will be, and what disclosure and use will be made of the identifiable information in it. Any recording, disclosure, and use of identifiable personal information not governed by such procedures must be proscribed as an unfair information practice unless such recording, disclosure or use is specifically authorized by law.



COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(73) 4300 final

Brussels, 27 November 1973

COMMUNITY POLICY ON DATA PROCESSING

(Communication of the Commission to the Council)

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* refers to paragraph's numbers

Protecting the Citizen

39. The creation of data banks joined increasingly by international links will oblige the Community to establish common measures for protection of the citizen. When police, and tax, and medical records, and the files of hire purchase companies concerning individuals are held in data banks, the rules of access to this information become vital. This is a matter on which a wide debate is needed in the Community**. In view of its basic constitutional importance, the Commission believes that public "hearings" on the matter are desirable. It would be better for the Community to seek a genuine political consensus on this matter now with a view to establishing common ground rules, than to be obliged to harmonise conflicting national legislation later on.

20. A wide debate is necessary on the subject of the privacy and protection of the citizen, with a view to the development of a Community policy in this field. Publics hearings are recommended (§ 39).

JUSTICE

Tandis que le ministère de l'intérieur développe la centralisation de ses renseignements

Une division de l'informatique est créée à la chancellerie

En ordre dispersé, les départements ministériels tentent de développer à leur profit, à leur seul usage, l'informatique et son outil, l'ordinateur. Ce n'est pas tout à fait un hasard si, à l'époque où le Journal officiel va publier un arrêté créant une « division de l'informatique » au ministère de la Justice, celui de l'intérieur met la dernière main à la mise en route d'un ordinateur

puissant destiné à rassembler la masse énorme des renseignements grattés sur tout le territoire; pas un hasard non plus si le projet SAFARI (Système automatisé pour les fichiers administratifs et le répertoire des individus) destiné à définir chaque Français par un « identifiant », qui ne définisse que lui, maintenant terminé, est l'objet de convoitises ardentes; le ministère de l'intérieur y souhaite

jouer le premier rôle. En effet, une telle banque de données, s'ouvrant à toute autre collecte de renseignements, donnera à qui la possédera, une puissance sans égale.

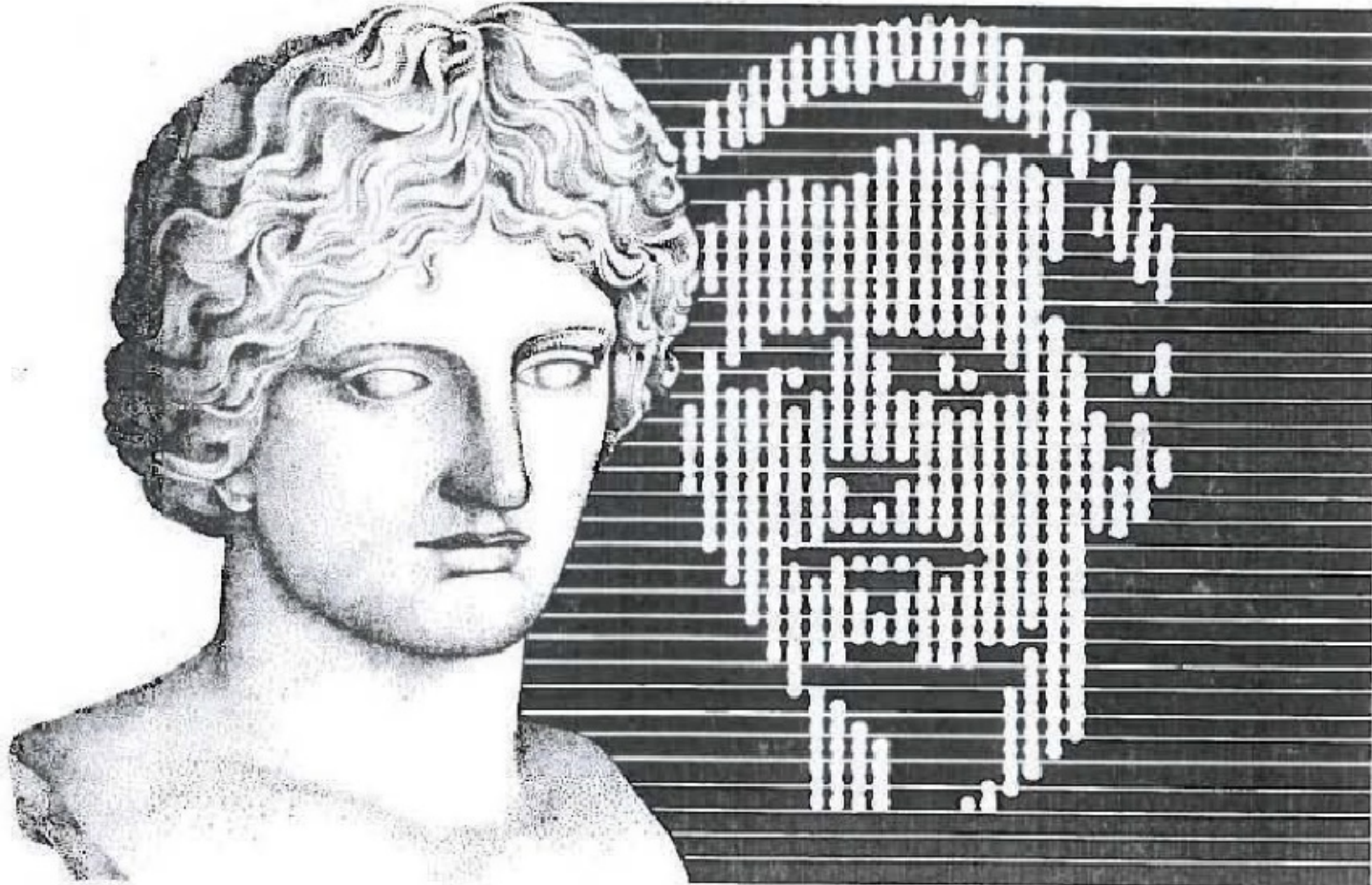
Ainsi se trouve d'évidence posé un problème fondamental, même s'il est rebattu : celui des rapports des libertés publiques et de l'informa-

tique. Son importance exigerait qu'il en soit, au Parlement, publiquement débattu. Tel ne paraît pas être, pourtant, la solution envisagée par le premier ministre dans les directives qu'il vient d'adresser au ministère de la Justice, adressées au premier chef si l'on s'en rapporte à la Constitution qui dans son article 66 fait de l'autorité judiciaire le gardien des libertés individuelles.

« Safari » ou la chasse aux Français

SYSTEME
AUTOMATISÉ pour les
FICHIERS
ADMINISTRATIFS et
REPERTOIRES des





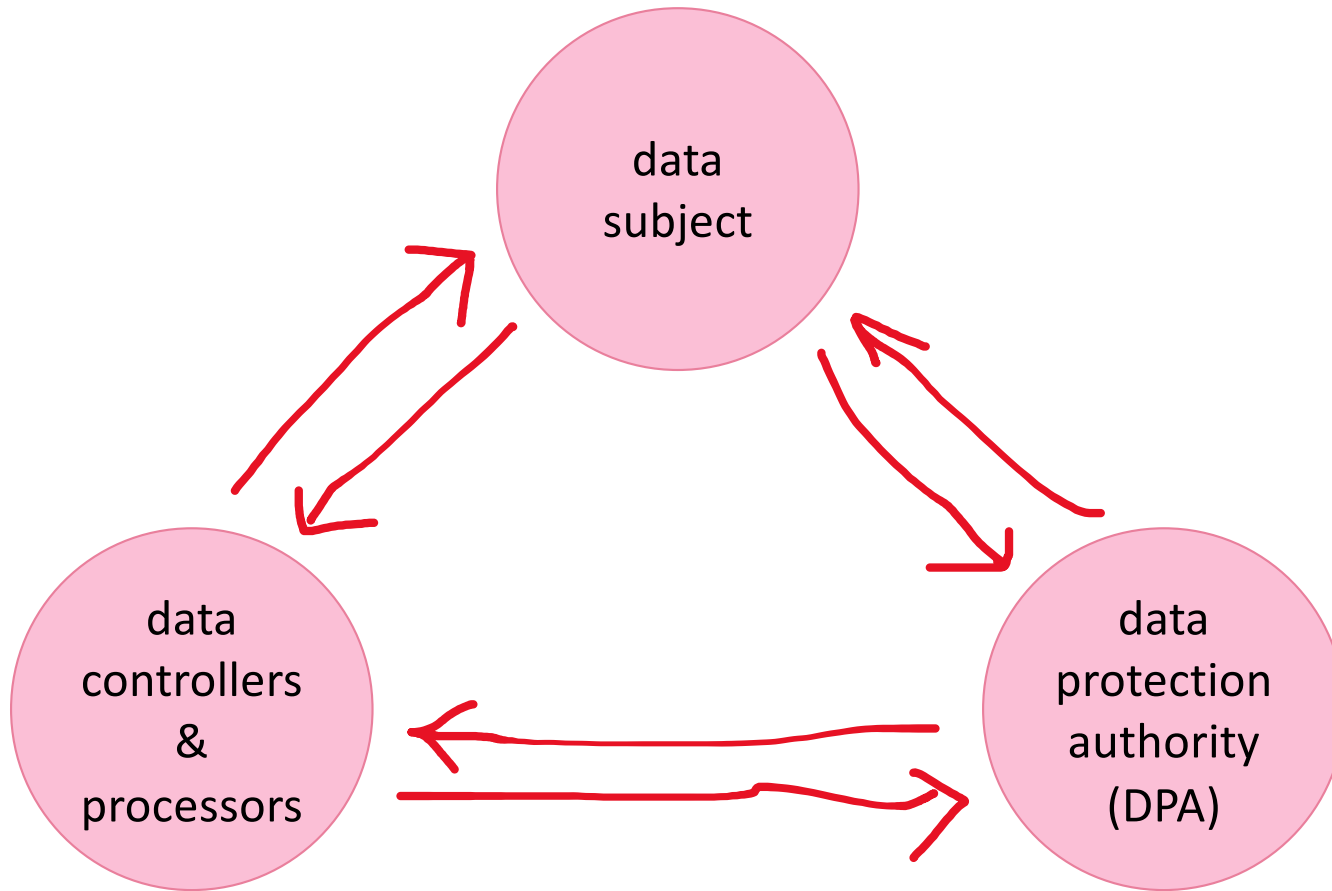
Credit: CNIL

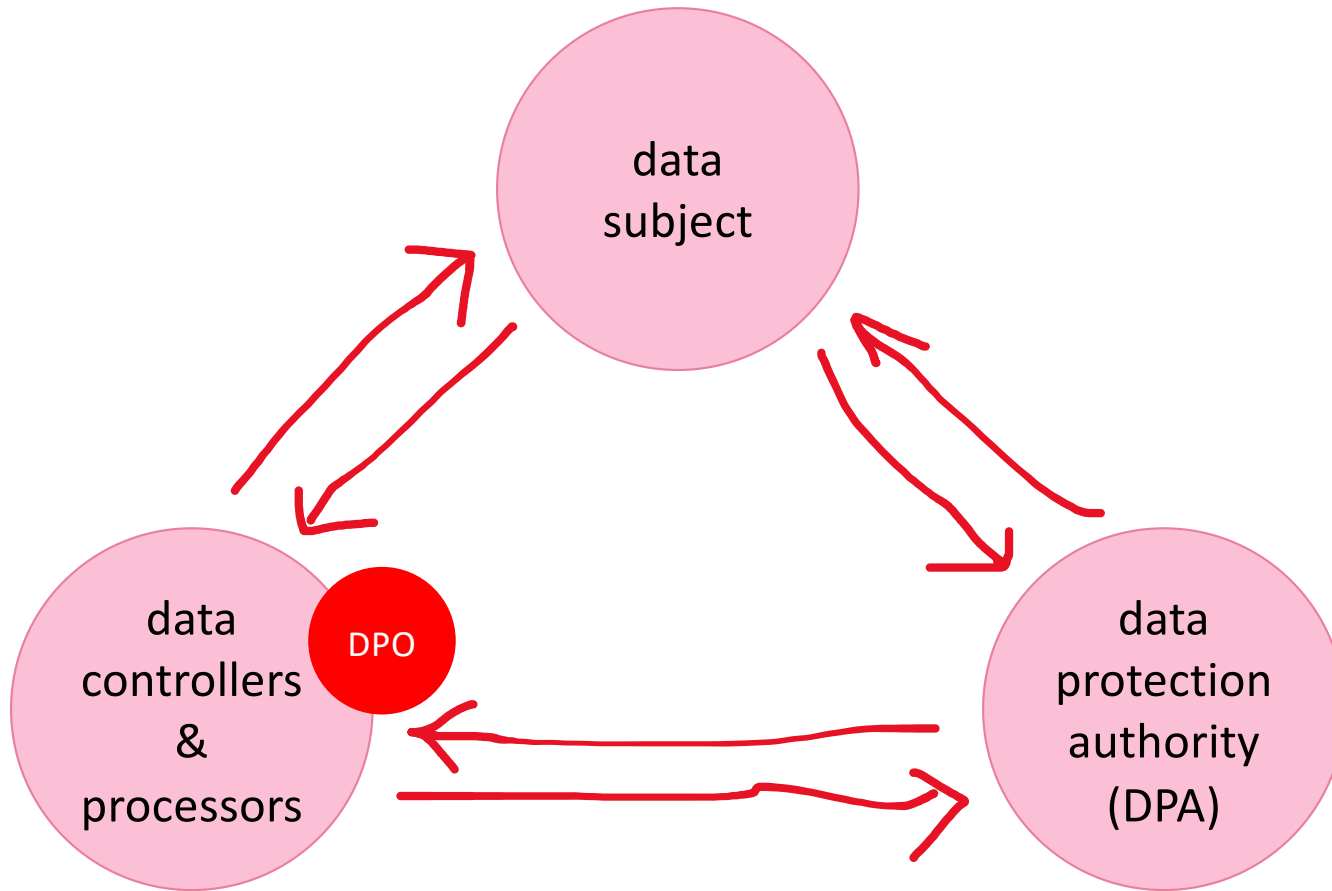


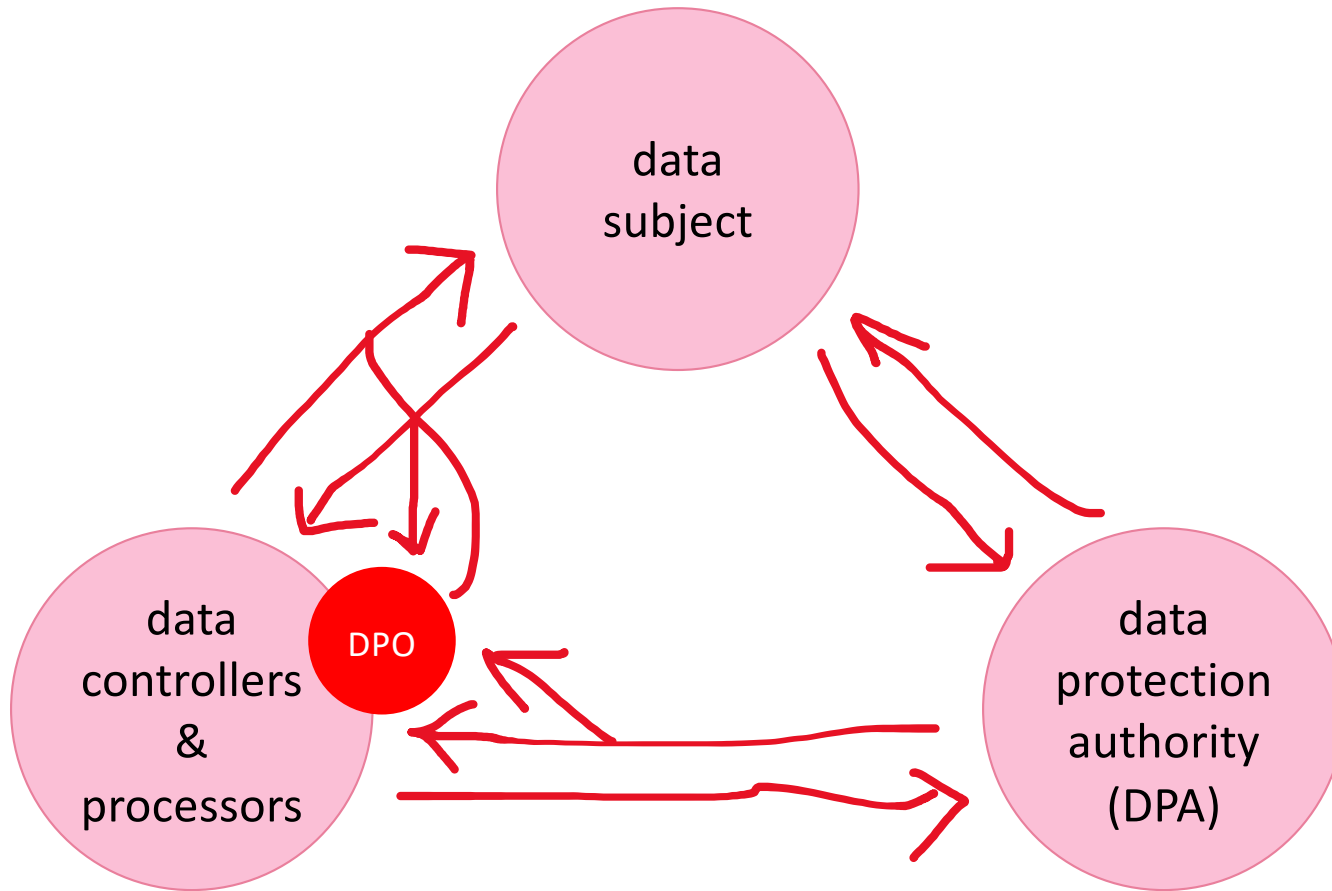
data
subject

data
controllers
&
processors

data
protection
authority
(DPA)







Article 37

Designation of the data protection officer

1. The controller and the processor shall designate a data protection officer in any case where:
 - (a) the processing is carried out by a public authority or body, except for courts acting in their judicial capacity;
 - (b) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or
 - (c) the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences referred to in Article 10.
2. A group of undertakings may appoint a single data protection officer provided that a data protection officer is easily accessible from each establishment.
3. Where the controller or the processor is a public authority or body, a single data protection officer may be designated for several such authorities or bodies, taking account of their organisational structure and size.
4. In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may or, where required by Union or Member State law shall, designate a data protection officer. The data protection officer may act for such associations and other bodies representing controllers or processors.
5. The data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39.
6. The data protection officer may be a staff member of the controller or processor, or fulfil the tasks on the basis of a service contract.
7. The controller or the processor shall publish the contact details of the data protection officer and communicate them to the supervisory authority.

Article 38

Position of the data protection officer

1. The controller and the processor shall ensure that the data protection officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.
2. The controller and processor shall support the data protection officer in performing the tasks referred to in Article 39 by providing resources necessary to carry out those tasks and access to personal data and processing operations, and to maintain his or her expert knowledge.
3. The controller and processor shall ensure that the data protection officer does not receive any instructions regarding the exercise of those tasks. He or she shall not be dismissed or penalised by the controller or the processor for performing his tasks. The data protection officer shall directly report to the highest management level of the controller or the processor.
4. Data subjects may contact the data protection officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation.
5. The data protection officer shall be bound by secrecy or confidentiality concerning the performance of his or her tasks, in accordance with Union or Member State law.
6. The data protection officer may fulfil other tasks and duties. The controller or processor shall ensure that any such tasks and duties do not result in a conflict of interests.

Article 39

Tasks of the data protection officer

1. The data protection officer shall have at least the following tasks:
 - (a) to inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation and to other Union or Member State data protection provisions;
 - (b) to monitor compliance with this Regulation, with other Union or Member State data protection provisions and with the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;
 - (c) to provide advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 35;
 - (d) to cooperate with the supervisory authority;
 - (e) to act as the contact point for the supervisory authority on issues relating to processing, including the prior consultation referred to in Article 36, and to consult, where appropriate, with regard to any other matter.
2. The data protection officer shall in the performance of his or her tasks have due regard to the risk associated with processing operations, taking into account the nature, scope, context and purposes of processing.

When is a DPO compulsory?

- Data controllers and processors must nominate a DPO if:
 - they are a **public authority** or body (unless they are a court); or if
 - their core activities:
 - are processing operations requiring **regular** and **systematic monitoring** of data subjects **on a large scale** by virtue of their nature, their scope and/or their purposes; or
 - concern **processing on a large scale of 'sensitive data'*** or data related to criminal convictions and offences.

* = Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Who can be DPO?

- The Data Protection Officer (DPO) shall be designated:
 - on the basis of professional qualities, in particular, expert knowledge of data protection law and practices;
 - and their ability to fulfil the mandatory DPO tasks.

The DPO & data controllers and processors

- The DPO may be a **staff member** of the controller or processor, **or** fulfil the tasks on the basis of a **service contract**.
- Controller and the processor must
 - ensure that the DPO is involved, properly and in a timely manner, in all data protection issues;
 - support the DPO by providing the necessary resources and access to personal data and processing operations, and allowing them to maintain their expert knowledge.

Independence requirement

- The DPO be in a position to perform their duties and tasks in an independent manner.
- The DPO shall not receive any instructions regarding the exercise of their tasks.
- The DPO cannot not be dismissed or penalised by the controller or the processor for performing their tasks.
- If the DPO fulfils other tasks and duties, the controller or processor shall ensure that any such tasks and duties do not result in a conflict of interests.

The DPO & data subjects

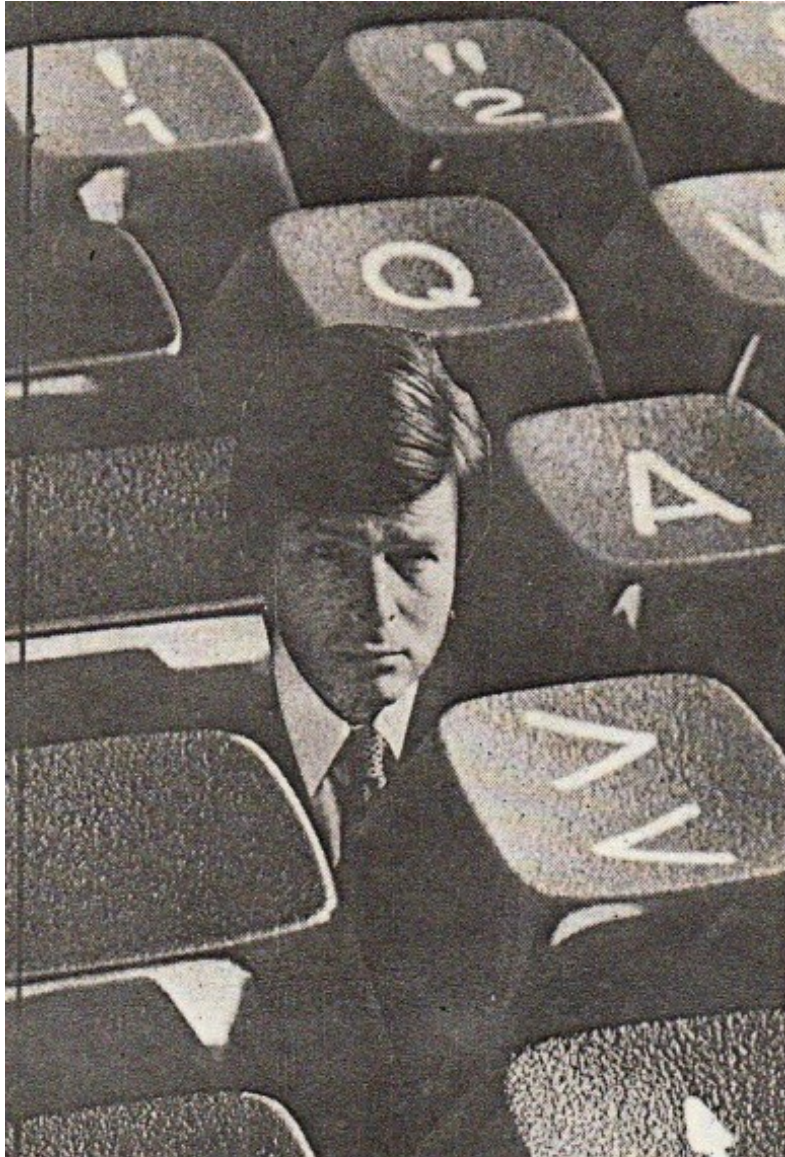
- Data subjects can contact the DPO with regard to all issues related to processing of their personal data and to the exercise of their rights under the GDPR.
- The contact details of the DPO must be communicated to data subjects (for instance in a data protection notice).

The DPO & the DPA

- DPOs must cooperate with Data Protection Authorities (DPAs).
- The DPO shall act as the DPA contact point.

What (else) must a DPO do?

- **Inform and advise** the controller or the processor and the employees who carry out processing of their obligations pursuant to data protection law.
- **Monitor data protection compliance** including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits.
- Provide advice on **data protection impact assessment** and monitor their performance.
- Have due regard to the **risk** associated with processing operations, taking into account the nature, scope, context and purposes of processing.



Thank you!

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