



KEEP CALM AND GET GDPR COMPLIANT

THE LEGAL PERSPECTIVE: ORIGIN, COVERAGE, COMPLIANCE AND PENALTIES

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Eurocham | Ho Chi Minh City | 7 June 2018

Already fed up with the GDPR? This is only just the beginning...



SAY GDPR

ONE MORE

TIME!



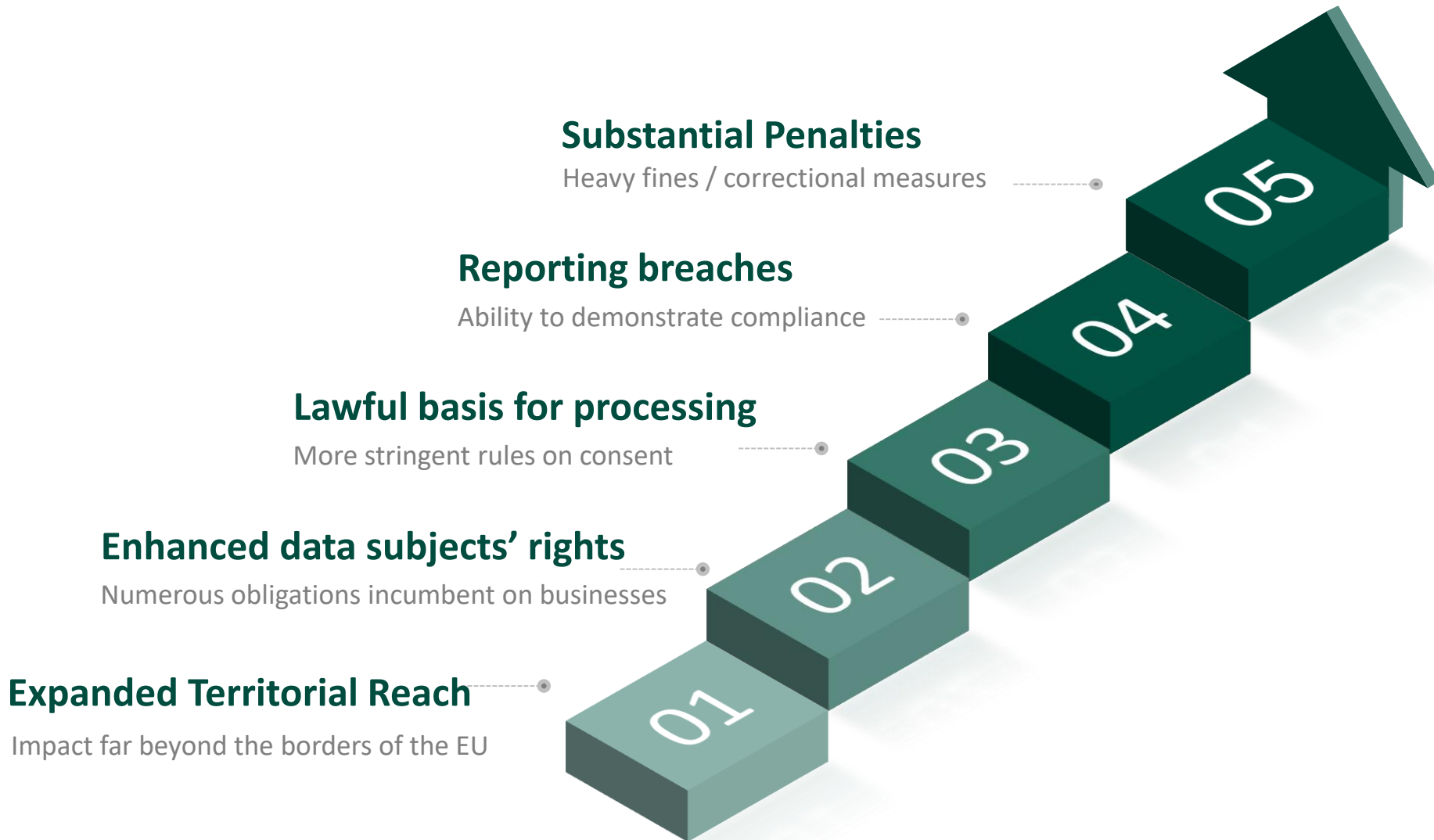
Origin: What Is New Under the GDPR?

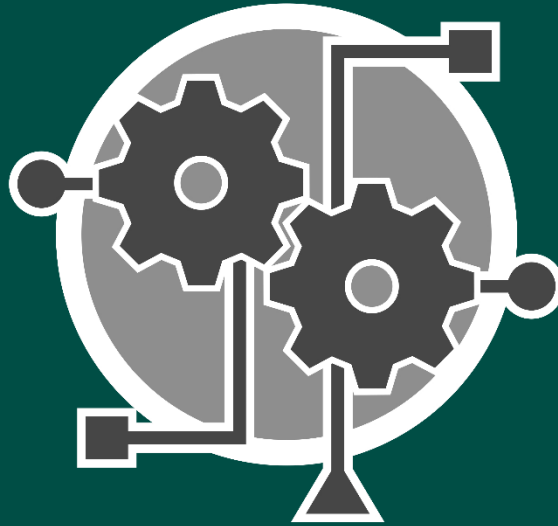
Article 8 - Charter of Fundamental Rights of the EU (2012)

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.

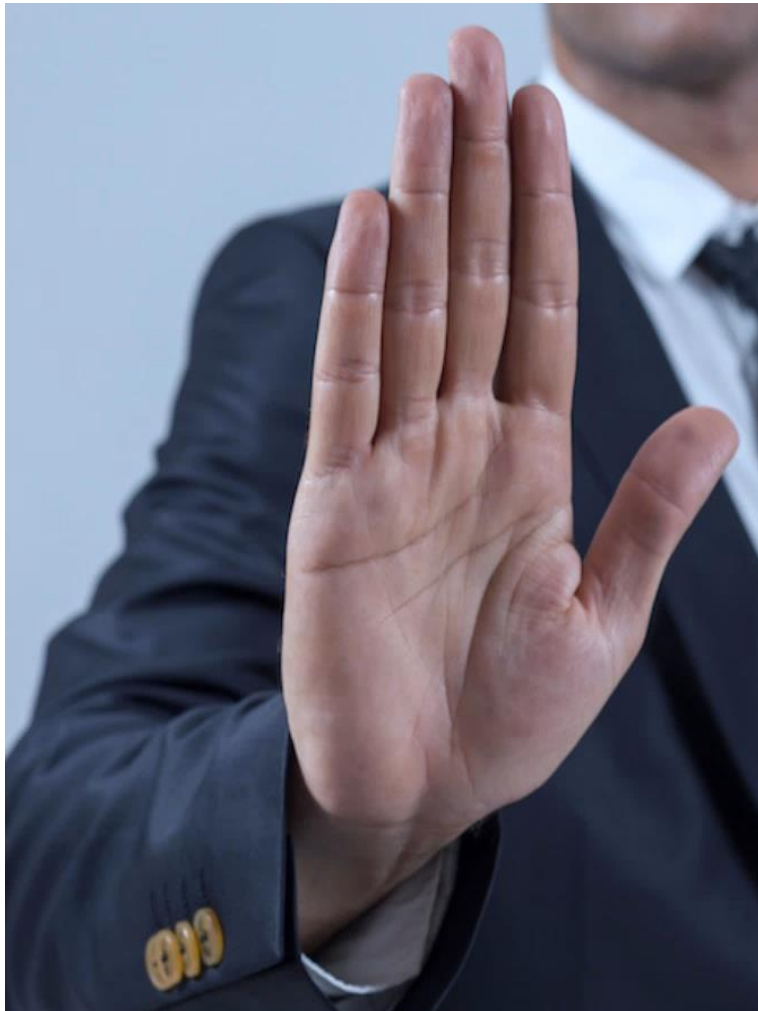
- European Union General Data Protection Regulation 2016/679 (“GDPR”) effective from 25 May 2018
- Replaces Data Protection Directive 95/46/EC which was dated, given the changes in the global data landscape over the last 20 years
 - Rapid technological developments and globalization
 - Massive collection and sharing of personal data
 - Scale of cross-border flows of personal data





Coverage: How could the GDPR affect you?

Ask yourself the rights questions



- Do I process **personal data**?
- Do I have an **establishment in the EU** involved in this processing?
- Do I **offer, or intend to offer, goods or services** to individuals located inside the EU?
- Do I **track individuals** located in the EU **over the internet** for commercial purposes?

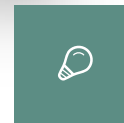
The GDPR has an **expanded territorial reach** – it applies to:

1. **Controllers or processors with** an establishment in the EU, regardless of whether they are processing personal data in the EU;
2. **Controllers or processors without** an establishment in the EU, processing **personal data** of **data subjects** located in the EU, where such processing activities are related to:
 - offering of goods or services to such data subjects in the EU; or
 - monitoring the data subjects' behavior taking place in the EU.

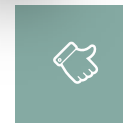
Case Study: Vietnamese Hospitality Group



Headquarters are situated in HCMC and hotels are located in Vietnam



Customers are residents and citizens located all around the world, including the EU



Collection of personal data such as names, email addresses, payment details



This hospitality group falls within the scope of the GDPR as it does offer and promote its services to individuals located within the borders of the EU.

Case Study: Regional Law Firm



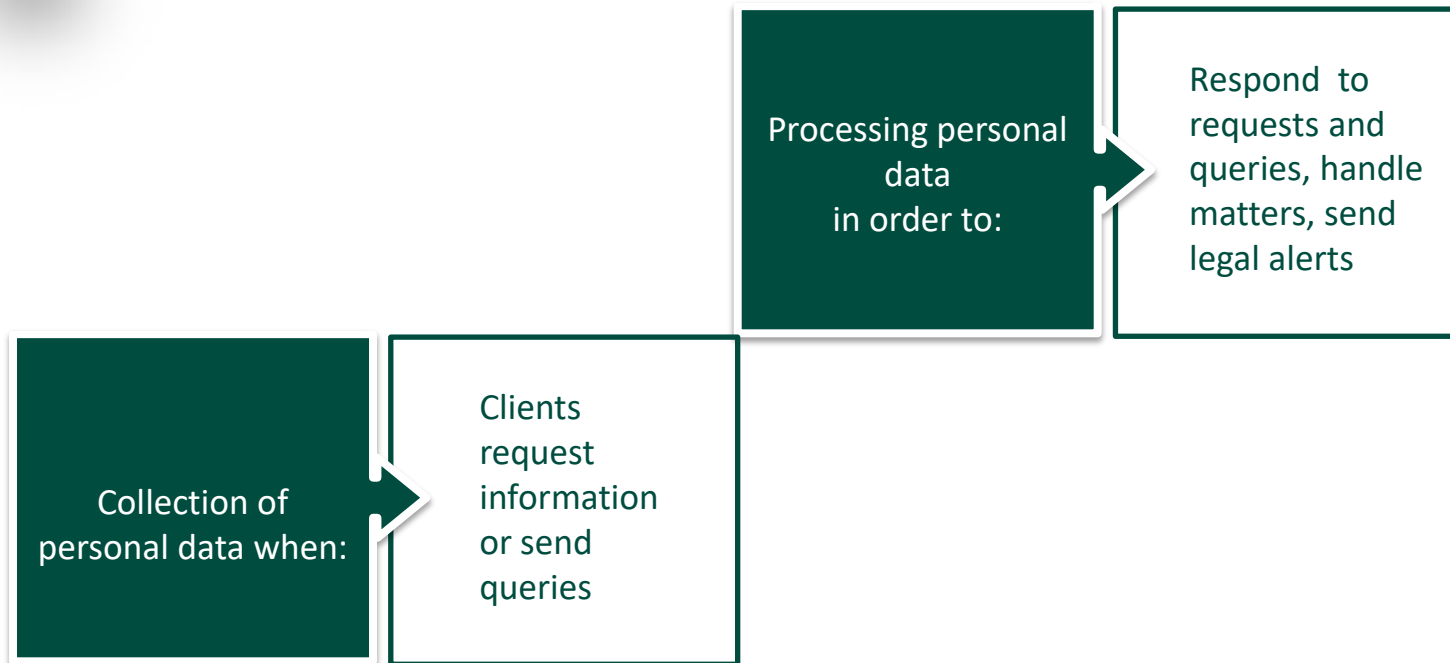
Headquarters based in Singapore and offices located across Southeast Asia



Clients are citizens from all over the world but reside in Asian countries only

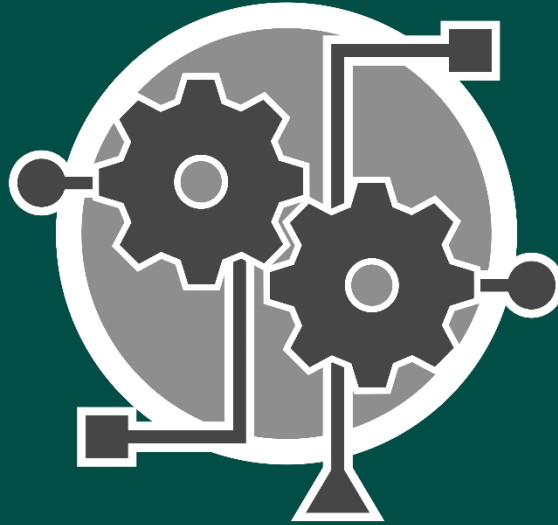


Collection of personal data such as names, email addresses, positions and companies.





This regional law firm does not process personal data from individuals located in the EU and the citizenship of its clients located in Asia is irrelevant. It is therefore not subject to the GDPR.



Compliance: What are some obligations under the GDPR?

Article 5 of the GDPR sets out seven key principles (the spirit of the data protection regime):

1. Lawfulness, fairness and transparency
2. Purpose limitation
3. Data minimization
4. Accuracy
5. Storage limitation
6. Integrity and confidentiality (security)
7. Accountability

- Right to be informed (privacy notices);
- Right to access ;
- Right to rectification;
- Right to erasure;
- Right to strict processing;
- Right to data portability;
- Right to object; and
- Right not to be subject to automated decision-making, including profiling.

- Document the personal data you hold;
- Review and update **privacy notices** that you use;
- Review your procedures to ensure that key individual rights are being respected and can be serviced (e.g. **access requests** with only one month to comply);
- Identify and document the **lawful basis for processing personal data**;

- Review how you seek, record and manage **consent** from data subjects or their guardians (e.g. data on children);
- Ensure effective **personal data breach** detection, reporting (within 72 hours of awareness) and investigation systems are in place; and
- Appoint a data protection champion or a **Data Protection Officer (DPO)**, if you need to.



Why should you be concerned?

Look further afield!



Penalties

You could face fines up to 4% of annual global turnover or EUR 20 million.



Reputational Damage

Consider the effects of recent data privacy related scandals...



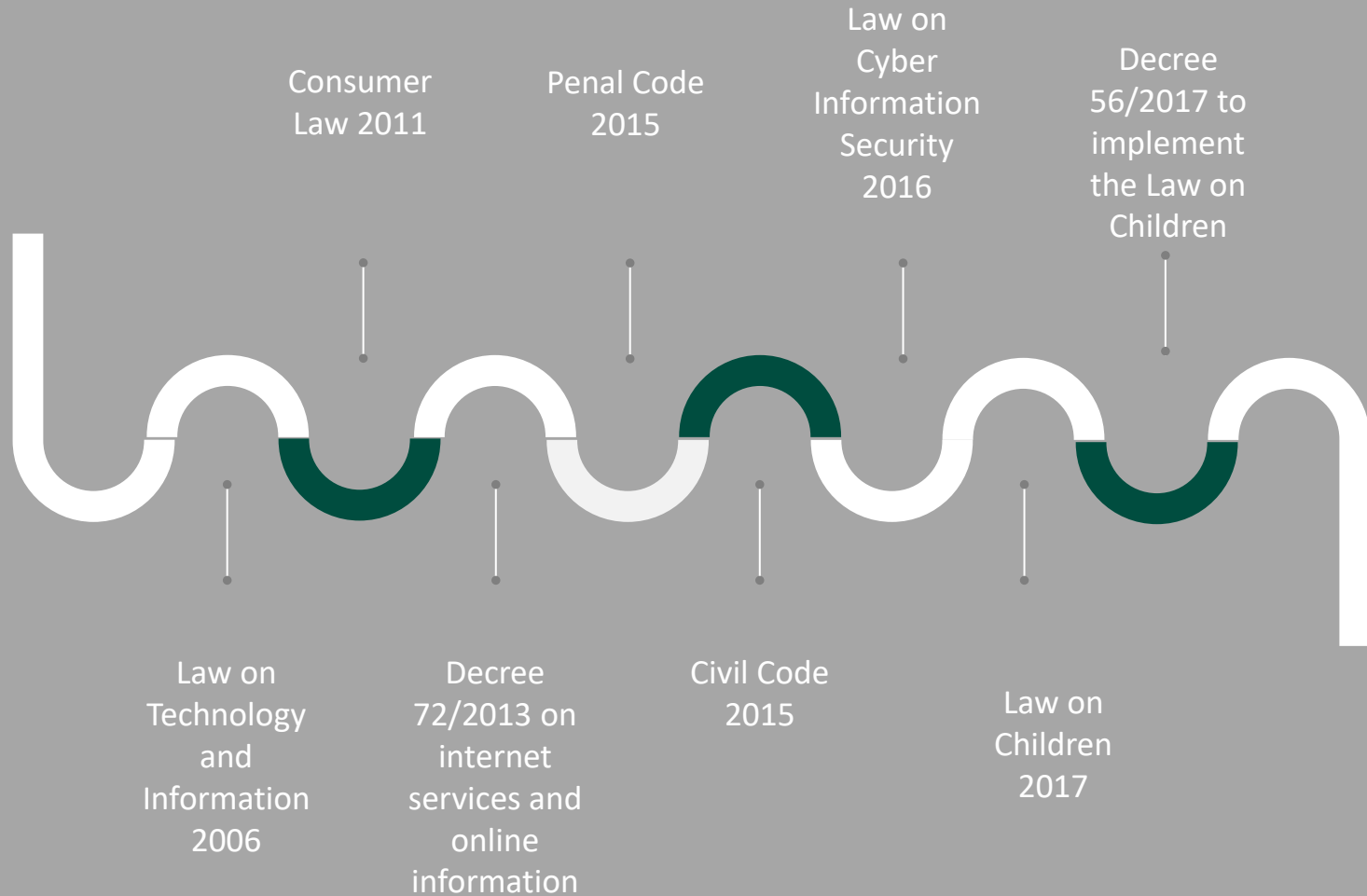
Consumer trust

Protecting your consumers' interest may result in new business opportunities.

The background is a dark teal color with a subtle pattern of books and a fan-like object. The books are stacked on the left side, and a large, open book is visible on the right side, with its pages fanned out. The overall aesthetic is clean and professional.

Privacy Regulation in Vietnam

Relevant Laws & Regulations: Vietnam



Regional Reach: Southeast Asia and South Asia



Bangladesh (2011)

Partner: 1

Advisers: 19

Cambodia* (1995)

Partners: 6

Advisers: 32

Lao PDR (1994)

Partners: 3

Advisers: 8

Indonesia* (2011)

Mataram Partners

Partnes: 3

Advisers: 8

Myanmar (1995)

Partners: 3

Advisers: 15

13 offices
9 countries
145+
legal and tax
advisers



Philippines* (2015)

Ocampo & Suralvo Law Office

Partners: 4

Advisers: 6

Singapore (2010)

Adviser: 1

Thailand (2005)

Partners: 6

Advisers: 17

Vietnam (2006)

Partners: 4

Advisers: 10

In Cambodia, DFDL works in commercial cooperation with Sarin & Associates. In Indonesia, DFDL works in association with Mataram Partners. DFDL does not operate or practice law in the Philippines. DFDL collaborates with Philippine law firm, Ocampo & Suralvo Law Offices, which provides local legal advice.

Thank you!



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