

# The Global Impact of New European Union Data Protection Regulations

What corporate HR functions need to know to be prepared and compliant.



Data protection rules across the European Union are about to undergo significant change due to recent amendments to the General Data Protection Regulation (GDPR). Although many companies are proactively taking the necessary steps to comply, a number of organizations either lag behind, or have yet to commence efforts in this area, and thus face potentially major compliance consequences in the months ahead.

From our research and analysis, this is especially the case for many corporate HR functions – as there are significant requirements across this area that require a strong compliance mandate. The following point-of-view will review some of the core impacts of GDPR on human resources across the enterprise, and what teams can do to be prepared.

## What is General Data Protection Regulation?

GDPR is the European Union (EU) regulation for data protection that becomes effective in May, 2018, and will replace the current data processing directive from 1995. Being a regulation, the GDPR will be a directly-applicable law in all member states within the EU and the European Economic Area (EEA).

At its core, the GDPR defines roles, processes and technology commitments that have to be in place for companies to be compliant and avoid severe penalties. It not only applies to organizations located within the EU, but also applies to any organization around the world that offers goods or services to, or monitors the behavior of EU data subjects.

It applies to all companies processing and holding the personal data of individuals residing in the European Union, regardless of the company's location. Furthermore, these rules apply to both data controllers and data processors, which means 'clouds' will not be exempt from GDPR enforcement.

Think about the impact to global tech giants like Google, Amazon and Facebook – you can bet they are being highly proactive in their efforts to address this regulation!

## The Impact on HR is Significant

Looking at the HR lifecycle, processes across the spectrum of recruitment, onboarding, enablement, development, retention and termination, it's abundantly clear that GDPR changes will have a major impact on all aspects of the HR department. In fact that there are fundamental changes to the way personal data will be handled going forward.

With fines for non-compliance expected to be as high as €20 million, or 4% of a company's global turnover, no organization can

risk being exposed. Thus, taking a proactive approach is critical to ensure a firm is prepared.

Data protection has an impact on most core HR activities. Let's explore these in more detail:

- **Data retention** – Consent must be explicitly given by a data subject. New conditions apply for how consent is being interpreted and what kind of information needs to be provided under the new GDPR.
- **Targeted information only used for the intended purpose** – Data minimization states companies should only hold and process data absolutely necessary for the completion of the activities for which that data was collected.
- **Demonstrate transparency and accountability** – Employee data is typically stored across multiple sources such as an HR information system, corporate intranet, email systems, social media platforms, mobile devices, and third-party payroll and benefits service providers. The mapping of this data, and providing employees access to it, will become ever more complex.
- **Data security** – Data protection officers (DPO) will enable internal or external auditing of every aspect of GDPR, which means that data access and data logs will have to be revisited.
- **Data portability** – Data subjects will be entitled to the portability of their data. If requested, an employer must provide a mechanism through which a terminated employee can transfer their data to a new employer.

This means HR departments have to rethink how personal data is collected, used and retained by their function. By personal data, the new GDPR defines "any information relating to an identified or identifiable natural person" which covers direct (e.g., name of an employee) and indirect identification (e.g., any other information which could identify them such as their job description or title, IP addresses, mobile device ID, etc.).

The process involved in mapping the flow of employee data alone may be an enormous task when employers need to be in control of every aspect, from data collected via access cards or collected in HR systems, to data transfers between group companies or business partners. And, in practice, the new documentation requirements mean that it will be important to keep a clear head to ensure that policies implemented have the right content. In other words, there is plenty of work to be done with a high potential for complexity!

# How to Comply

Considering the typical lifecycle of data in HR business processes and systems (depicted in the process chart below), there are a number of areas where companies can use expert services to help them conform with the GDPR.

- **Conduct a data privacy impact assessment** – Perform this to document personal sensitive data and to understand the flow of that data to comprehend how IT systems link together. This will provide organizations with a strong understanding of where the data is and what the risk areas are.
- **Analyze governance, risk and compliance solutions** – A key step to embed controls within business processes or transactions, and to gain insight into anomalies and potential risk events. Identity and access management, dynamic authorization management, audit management, process control, and risk management need to be looked at closely.
- **Archive and delete personal data** – Given gaps in many HR systems today, it becomes especially important to have the right retention policies in place, and to be clear about the length of time one will be retaining the information collected. Finally, organizations should have a documented and easy-to-follow procedure to archive and/or delete a subject's data.

# How Recruitment will be Impacted.

As mentioned, the new GDPR regulations will have a strong impact on every organization with operations in the EU – either physically or indirectly. These regulations also apply to the recruitment process of job applicants, as this is historically an area of significant data capture for companies.

Due to the need of more transparency on collecting, processing and storing data on job candidates, a number of processes

will have to be rewritten in a clear way. Data management will have to be simplified, documentation will need to be updated and clear consent will need to be obtained and documented from job applicants. Let's explore these in more detail.

## Processes

Due to GDPR, when candidates apply for roles, companies need to be upfront and clear about why the data is collected, how it will be processed in their talent databases and for how long it will be stored. Clear data retention policies need to be updated and cascaded throughout recruitment teams, especially ones that work in a decentralized model with data stored in many locations.

The first step is to identify how your firm collects, stores and uses candidates' data as part of the recruitment and hiring process. Any candidate can request to be forgotten or deleted, so working out a workflow to enable them to do so is key. Ensure that there are processes in place to recognize and action candidate requests or complaints about their data. Also, consider reviewing the security and data breach processes from the way it is being reported to how candidates are notified.

Where applicant emails are generated, a clear "Opt-Out" option at the bottom of each e-mail will become necessary, as well as the implementation of a seamless communication mechanism through which candidates can make specific requests and/or complaints about their personal data.

## Data Management

Due to the demand of more transparency and flexibility in handling job applicant files, data management will need to be simplified. Having a centralized system that handles all candidate and client data is imperative under GDPR. This will make monitoring and maintaining master data easier.

Some important changes might include: appointing a data protection officer responsible for gathering, handling and storing the data, mapping out the exposure by listing all shared folders, excels and events lists, timesheets and pay bill info where candidate data is presented, and knowing where candidate data is present and who has access to it.



Finally, given that the GDPR is about transparency, making sure a clear terms of use is developed and published is also key here.

## Documentation and Consent

The most fundamental impact for all agencies will be in updating their documentation, both internally and externally. Companies will have direct responsibility for their own compliance and must be able to demonstrate a paper trail of compliance in their records.

Another significant impact area on organizations is to obtain and store consent from candidates. Individual consent must be sought for, such as when a candidate has put his or her details forward for one vacancy and then used for an unrelated purpose. Implied consent – that may come from the terms and conditions laid out by a job board posting – is no longer enough, as personal data cannot be shared on that basis.

All applicant entries must be submitted to a valid role and must be contacted by the recruiter and given the vacancy details before a CV is sent. Every new candidate must expressly give consent to the agency's terms of use. Hence, capturing this from point of candidate registration on websites straight to an internal database is a big tick. Therefore, allowing candidates

to access their profiles and job-related activities can demonstrate this. Email and SMS marketing subscriptions must be a deliberate option made by the applicant, and must also be transparent.

## The Time for Compliancy is Now!

The upcoming launch of the new GDPR enforcement is just around the corner. What was initially in the realm of legal teams has now reached board rooms, and needs to be operationalized within the business to ensure compliancy. This will require the involvement of multi-disciplinary teams (e.g., Legal, HR, Operations, IT) and entails organizations to have a very clear understanding of the data they collect, store, process, share and retain while keeping track of the corresponding consent for having the data in the first place.

Compliancy to a major new initiative like this may seem like a daunting task, but the good news is that companies don't need to take this journey alone, as there are subject matter experts available who can ensure initial and ongoing compliance with the GDPR.

# About Infosys Consulting

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## About the authors

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**Gerson Trigueiros**  
Principal – ERP Transformation Practice  
[gerson\\_trigueiros@infosys.com](mailto:gerson_trigueiros@infosys.com);  
[www.linkedin.com/in/gersontrigueiros](https://www.linkedin.com/in/gersontrigueiros)

Gerson is a member of the HCM service area within the ERP Transformation practice and has wide experience in HCM transformation projects across industries and geographies. He has architected and led SAP implementations related to HR, deriving business value for clients.



**Marco Duarte**  
Principal – ERP Transformation Practice  
[marco\\_duarte@infosys.com](mailto:marco_duarte@infosys.com)  
[www.linkedin.com/in/marco-duarte-9880641](https://www.linkedin.com/in/marco-duarte-9880641)

Marco is a member of the HCM service area within the ERP Transformation practice and has over 17 years of experience in SAP HCM implementations and rollouts for multi-national companies in more than 14 countries. Skilled at several areas within HR, he has also implemented other SAP modules, in over 40 projects with the final goal to add value to the client.



**Laura Morareanu**  
Principal – ERP Transformation Practice,  
Infosys Consulting  
[laura.morareanu@infosys.com](mailto:laura.morareanu@infosys.com);  
[www.linkedin.com/in/lauramorareanu](https://www.linkedin.com/in/lauramorareanu)

Laura is a member of the HCM service area within the ERP Transformation practice as well as a coach and team lead for the Romanian HCM team. In addition to holding a Master's degree in Information Systems, she has a breadth of experience implementing and leading large-scale projects across industries and geographies. She is keen on staying atop the ever changing world of IT, in terms of both technical and functional processes.



**Marco Dias**  
Associate Partner – ERP Transformation Practice  
[marco\\_dias@infosysconsulting.com](mailto:marco_dias@infosysconsulting.com)

As a senior leader in our ERP Transformation practice, Marco's main focus is on organizational design, human capital management process optimization and multi-national SAP template implementations. He works across a range of industries, including pharma and consumer goods, and is a certified scrum master and a design thinking instructor. Marco has over 18 years of experience, including 7+ years with Infosys Consulting.

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For more information, contact [consulting@infosys.com](mailto:consulting@infosys.com)



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