The General Data Protection Regulation provides for a single set of rules directly applicable in all Member States as of 25 May 2018. This means that it can be directly relied on by citizens, businesses, public administrations and other organisations processing personal data. As enforcers of the Regulation and direct contacts for stakeholders, data protection authorities — particularly the new European Data Protection Board — will play a crucial role to ensure a uniform application of the new rules across the EU.

Enforcement of the General Data Protection Regulation will be facilitated by a new body — the European Data Protection Board — as well as the new binding decision-making by the Data Protection Authorities, including a possibility to adopt decisions with fines.

### COMPOSITION OF THE EUROPEAN DATA PROTECTION BOARD

- **EU: European Data Protection Supervisor**
- **28 Member States: head of each national Data Protection Authority**
- **EU: European Commission**

(attends meetings without voting rights)

**Management**

- **Chair**
- **Deputy Chair**
- **Deputy Chair**

**Role**

- Ensure that the data protection law is applied consistently across the EU
- Ensure effective cooperation amongst Data Protection Authorities

**Through**

- **> binding decisions**, for instance settling disputes between countries regarding cross-border processing of data. The binding decision is a new mechanism introduced by the General Data Protection Regulation
- **> opinions**, e.g. on whether a draft Code of Conduct proposed by industry complies with the Regulation
- **> guidelines**, for instance on the interpretation of data protection law. Issuing guidelines will work in a similar way it does today. Data Protection Authorities will be able to work on guidelines which will then be validated by the full Board by a simple majority
EU Data Protection Reform: ensuring its enforcement

For example, 4 Data Protection Authorities have noticed a similar data protection issue (e.g. data breach) in their countries.

The leading authority is designated on the basis of the criteria (for more information on them see Art. 56 (1) provided in the General Data Protection Regulation).

Lead authority drafts decision

Consensus between the 4 authorities

No consensus between the 4 authorities

4 authorities adopt national decisions on the basis of the draft prepared by the lead authority

Decision is taken by the Board by 2/3 majority

4 authorities adopt national decisions on the basis of the Board’s decision — this decision is binding for the 4 authorities concerned —

One example of a case that could have been treated through this new binding decision making (if the new Regulation was in place) is the Google Street View case — on which national authorities received complaints from citizens and on which the authorities worked separately adopting different decisions and approaches. This led to legal uncertainty for the company operating in different Member States.
**EU Data Protection Reform: ensuring its enforcement**

**HOW WILL THE SANCTIONS MECHANISM WORK IN PRACTICE?**

1. **Suspicion that a company in an EU country does not respect new data protection rules**

2. **Data Protection Authority (DPA) in that country analyses the case**

3. **The Data Protection Authority concludes that the company RESPECTS the rules**
   - No action
   - e.g. suspension of data flows to a recipient in third country
   - e.g. reprimand to company
   - e.g. ban on processing of data (temporary or definitive)

4. **The Data Protection Authority concludes that the company BREACHES the rules**
   - The Data Protection Authority adopts a decision but does not impose a fine
   - The Data Protection Authority adopts a decision and imposes a fine
   - Depending on infringement (*): fine up to 4% of company’s worldwide annual turnover, or up to 20 million EUR, whichever is higher

**In some cases, Data Protection Authority can combine a fine with e.g. a ban or a reprimand**

(*) Data Protection Authorities take into account the following elements to determine the fine:
- nature of the infringement done by company (see articles 5, 6, 8, 9 of the GDPR)
- actions taken by company to mitigate the damage suffered
- relevant previous infringement done by the same company
EU Data Protection Reform: ensuring its enforcement

**COMPLAINT MECHANISM FOR CITIZENS**

Citizen identifies that his/her data protection right is not respected

- Citizen contacts the national Data Protection Authority (according to Art. 77 of the Regulation)
- This authority will guide him/her on how to take the case forward based on the specific national procedure in place (*)

- Citizen goes to the court (according to Art. 79 of the Regulation)