

Global Convergence of Privacy Laws & GDPR Best Practices



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Anna Pouliou

Partner at Deloitte

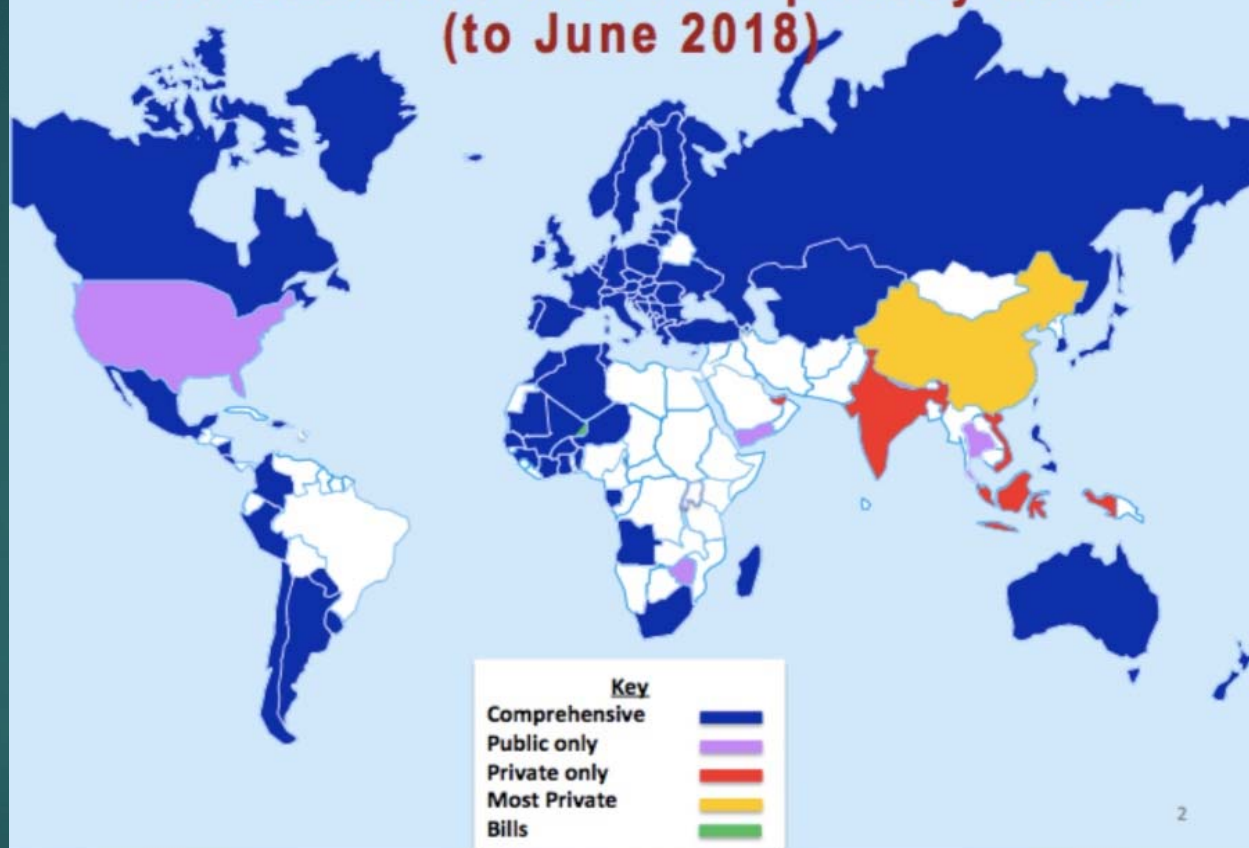
GDPR Multistakeholder Group Expert at European Commission

Business Europe Representative

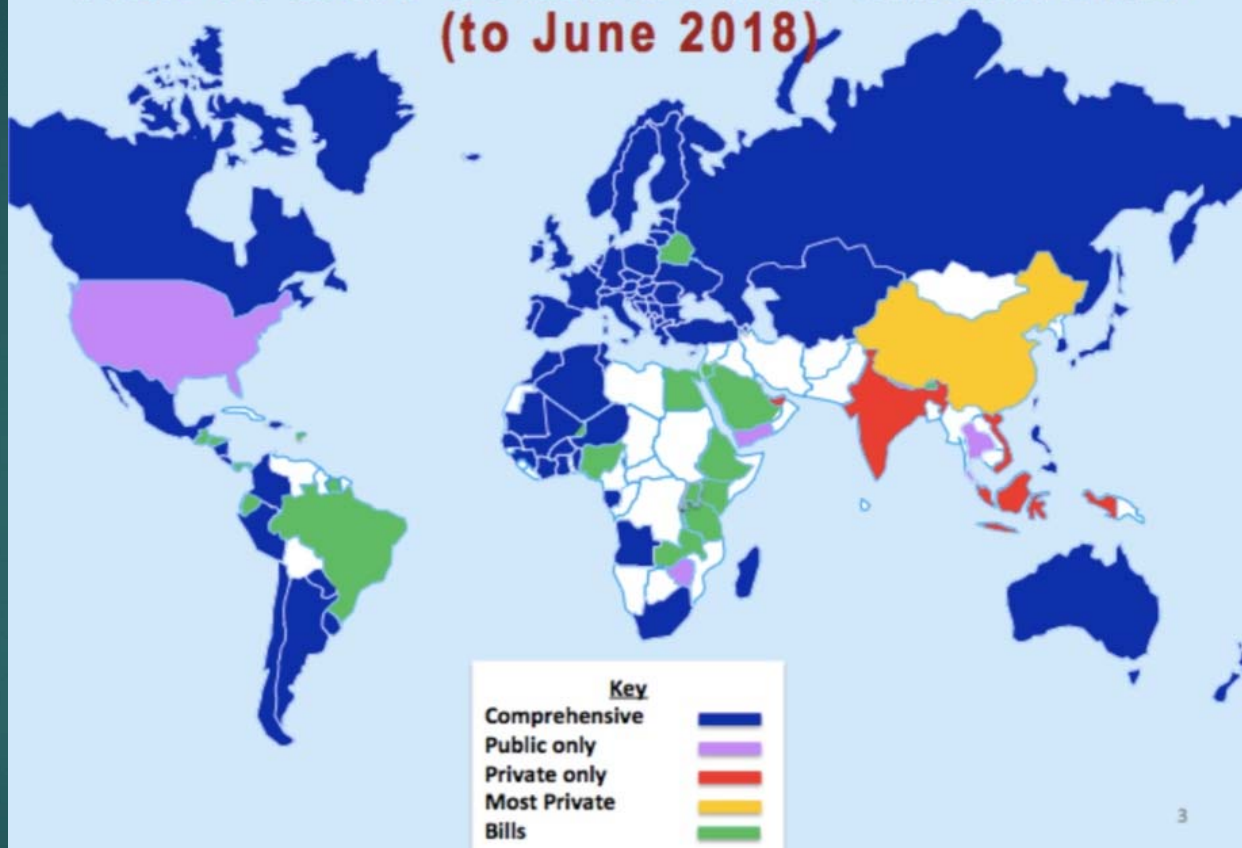
1. Global Convergence of Privacy Laws



126 Countries with data privacy Laws (to June 2018)



Plus 34 more Countries with official Bills (to June 2018)




Global Convergence of Privacy Laws

- ▶ 1970: First privacy law in Hessen Lander, Germany
- ▶ 1980: Convention 108 of the Council of Europe and OECD Privacy Guidelines setting 10 core privacy elements
- ▶ Today +126 countries have laws that meet the « 10 privacy standards ». High level of convergence
- ▶ All 47 countries of Council of Europe have such laws
- ▶ About 5 privacy laws per year were enacted in the past decade
- ▶ 1995: EU Directive, higher standards, further convergence
- ▶ 2016: GDPR the « gold standard » of data protection. Early adopters (i.e. 2017 updated law in Benin)
- ▶ « GDPR lite » or « Global Data Protection Convention108 »

Global Convergence of Privacy Laws - Risks



- ▶ The « lower standard » APEC and CBPRs frozen in 1980 (20 US companies certified)
 - ▶ The US approach: regional agreements on lower standards, FTAs with prohibitions on data export restrictions
 - ▶ The data localisation approach/element
 - ▶ Data sovereignty
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UN Observatory of Privacy Laws

https://unctad.org/en/Pages/DTL/STI_and_ICTs/ICT4D-Legislation/eCom-Data-Protection-Laws.aspx

58% of countries have comprehensive privacy laws

Privacy high up on the list of the digital economy's most critical consumer issues

10% of the world's nations have privacy laws in the works, including some of the largest digital economies like Brazil



2. GDPR Best Practices



Accountability

- ▶ Investment in resources
- ▶ Training
- ▶ Privacy by design
- ▶ Technical and organisational measures
- ▶ Documented effort
- ▶ Continuous effort
- ▶ Transparency to regulators



The DPO Registry

The heart of the privacy programme

- ▶ Data mapping
- ▶ DPIAs
- ▶ Budget
- ▶ List of third party providers, status, transfer mechanisms
- ▶ Data incidents
- ▶ Data processing activities and legal bases
- ▶



The Legal Basis – Art 6

- ▶ Consent
- ▶ Performance of a contract
- ▶ Compliance with legal obligation
- ▶ Protection of vital interests of a natural person
- ▶ Public interest or official authority
- ▶ Legitimate interest (balancing of rights)



Legislation in Evolution

- ▶ GDPR Multi-stakeholder Expert Group – EU Commission
- ▶ EDPB Guidelines
- ▶ Jurisprudence (GDPR Enforcement Tracker)

Examples:

- Planet 49 (cookies)
- Fashion ID (joint controllers)



Thank you!

