

Introduction to the EU GDPR

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Course of Law and Data 2022-23





learning objectives

- what the GDPR is
- the material scope of the GDPR
- the territorial scope of the GDPR

1. Introduction to the EU GDPR

Towards the **GDPR**

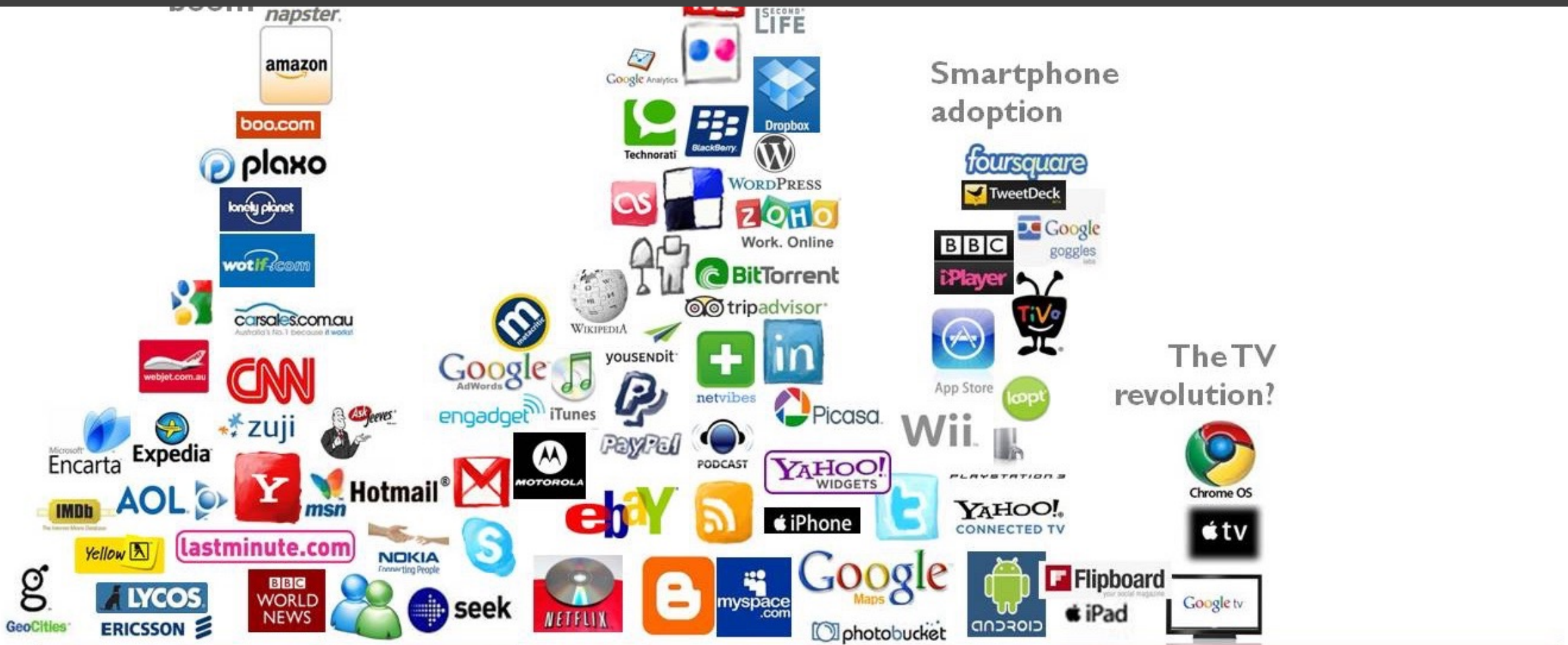
- **European Data Protection Directive** into force until May 27th, 2018
- **European General Data Protection Regulation**
 - approved on **April 27th, 2016**
 - applied since **May 28th, 2018**

A transition of 2 years to adapt the previous system to the new provisions

**EU GDPR vs.
European Data
Protection
Directive
95/46/EC**



<https://advisera.com/eu>



Smartphone adoption

The TV revolution?

Dialup 1995 WAP 2000 Broadband 2005 NextG 2010 ADSL2 4G NBN 2015?

2010

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)

structure

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union (the 'Charter') and Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) provide that everyone has the right to the protection of personal data concerning him or her.
- (2) The principles of, and rules on the protection of natural persons with regard to the processing of their personal data should, whatever their nationality or residence, respect their fundamental rights and freedoms, in particular their right to the protection of personal data. This Regulation is intended to contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, to the strengthening and the convergence of the economies within the internal market, and to the well-being of natural persons.
- (3) Directive 95/46/EC of the European Parliament and of the Council ⁽⁴⁾ seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to ensure the free flow of personal data between Member States.



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)

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- (3) Directive 95/46/EC of the European Parliament and of the Council ⁽⁴⁾ seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to ensure the free flow of personal data between Member States.

legal basis & competences



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)

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Whereas: **recitals (not binding)**

- (1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union (the 'Charter') and Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) provide that everyone has the right to the protection of personal data concerning him or her.
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CHAPTER I - General provisions

CHAPTER II - Principles

CHAPTER III - Rights of the data subject

Section 1 - Transparency and modalities

Section 2 - Information and access to personal data

Section 3 - Rectification and erasure

Section 4 - Right to object and automated individual decision-making

Section 5 - Restrictions

CHAPTER IV - Controller and processor

Section 1 - General obligations

Section 2 - Security of personal data

Section 3 - Data protection impact assessment and prior consultation

Section 4 - Data protection officer

Section 5 - Codes of conduct and certification

CHAPTER V - Transfers of personal

(173) This Regulation should apply to all matters concerning the protection of fundamental rights and freedoms *vis-à-vis* the processing of personal data which are not subject to specific obligations with the same objective set out in Directive 2002/58/EC of the European Parliament and of the Council ⁽¹⁸⁾, including the obligations on the controller and the rights of natural persons. In order to clarify the relationship between this Regulation and Directive 2002/58/EC, that Directive should be amended accordingly. Once this Regulation is adopted, Directive 2002/58/EC should be reviewed in particular in order to ensure consistency with this Regulation,

HAVE ADOPTED THIS REGULATION: **articles (binding)**

CHAPTER I

General provisions

Article 1


Subject-matter and objectives

1. This Regulation lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data.
2. This Regulation protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.
3. The free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data.

Article 2

Material scope

1. This Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.
2. This Regulation does not apply to the processing of personal data:



GDPR – Art. 1

Subject-matter and **objectives**

1. This Regulation lays down rules relating to the **protection of natural persons** with regard to the processing of personal data and rules relating to the **free movement of personal data**.
2. This Regulation protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.
3. The free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data.

GDPR – Art. 1

Subject-matter and objectives

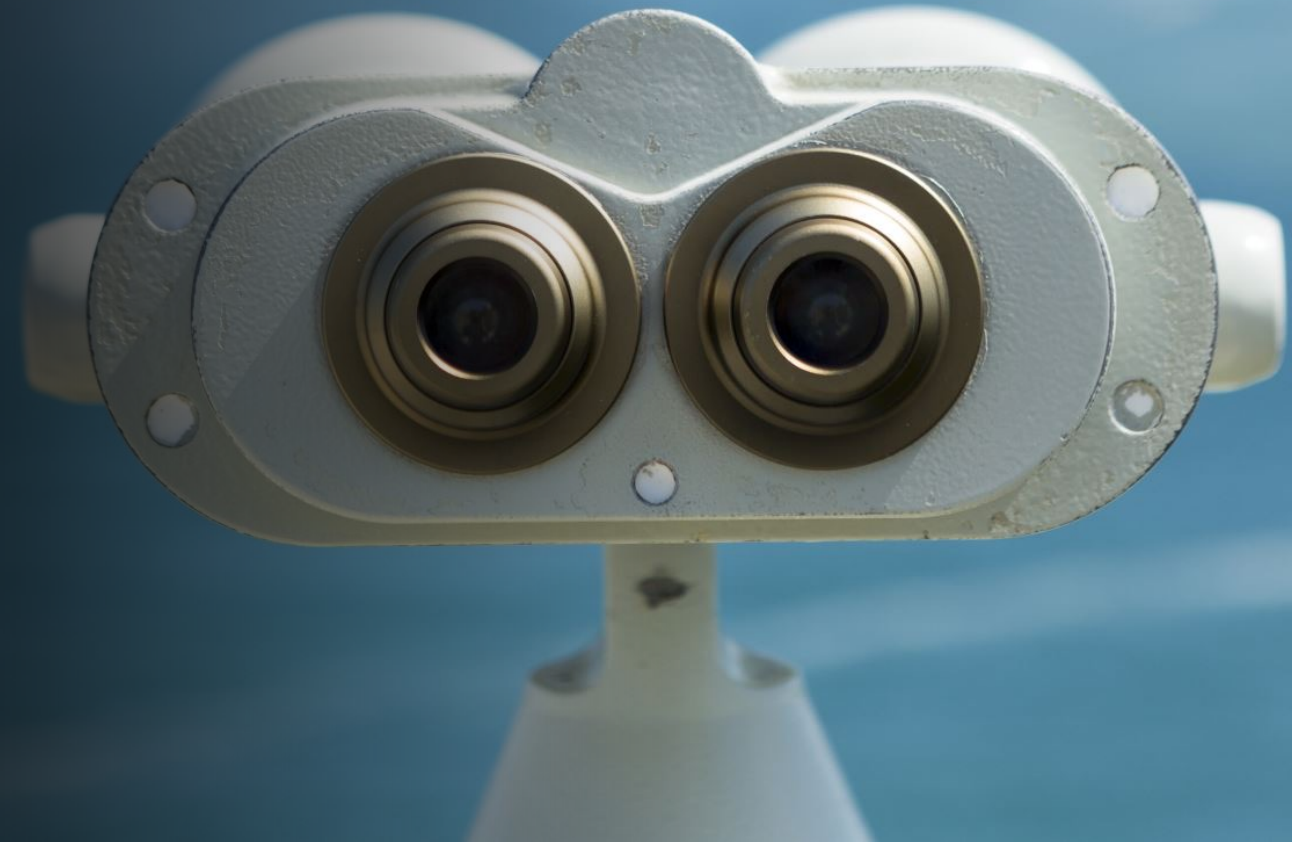
1. **protection of natural persons and/vs. free movement of personal data.**

2. *fundamental rights and freedoms [...]*
in particular right to the protection of personal data.

3. *The free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons...*

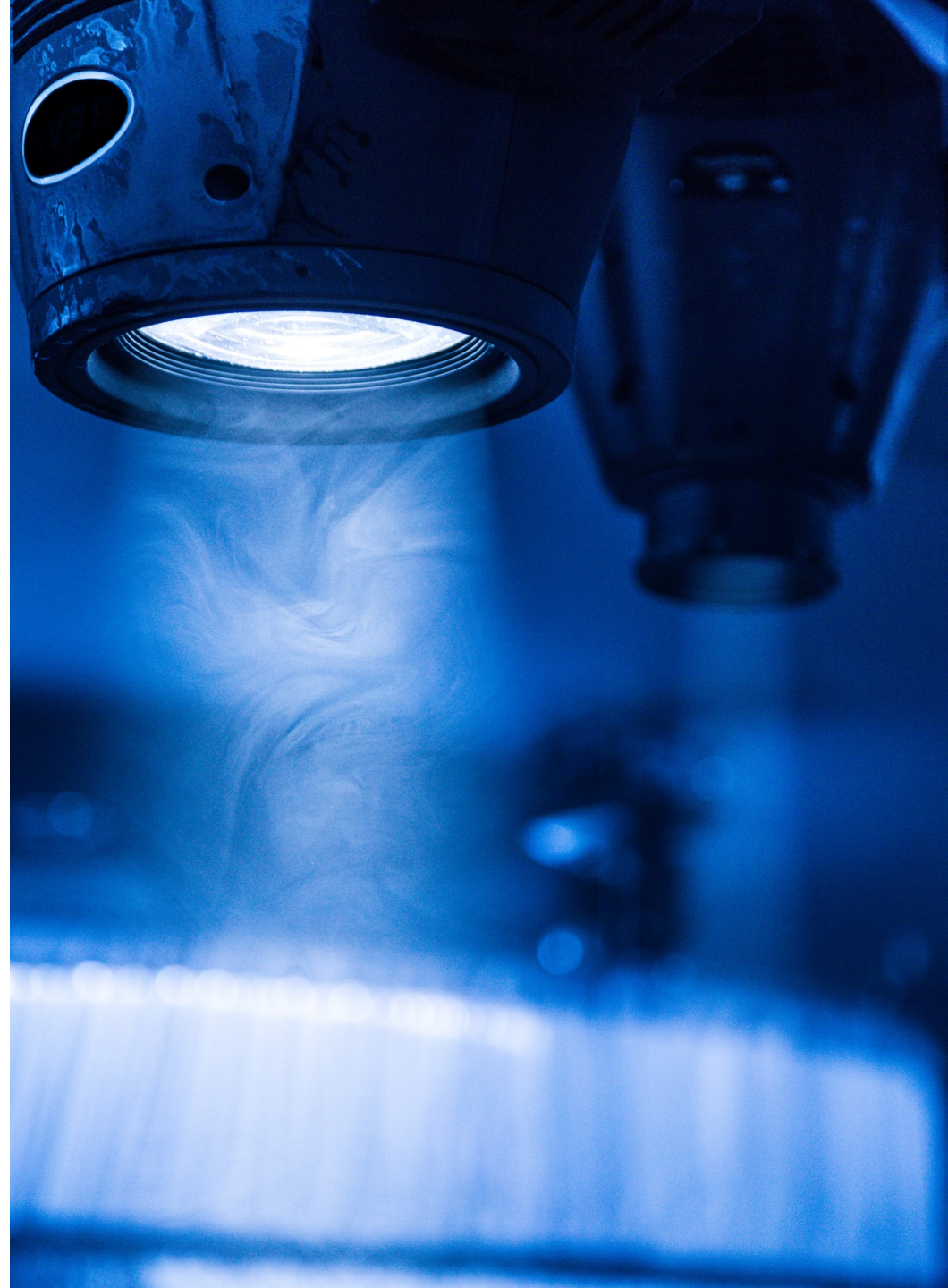


2. gdpr material scope



material scope

- **Article 2**
- *Material scope*
- 1. This Regulation applies to **the processing of personal data wholly or partly by automated** means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.





exceptions

- 2. This Regulation **does not apply** to the processing of personal data:
 - (a) in the course of an activity which falls **outside the scope of Union law**;
 - (c) by a **natural person** in the course of a **purely personal or household activity**;
 - (d) by competent authorities for the purposes of the **prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security**

outside the
scope of the
eu law

Areas of EU action


The European Union can only act in those areas to do so, via the EU treaties. The treaties specify national governments or both.



SCAN ME

purely personal
or household
activity



A close-up, slightly blurred background image of yellow and black striped caution tape. The tape is wrapped around a cylindrical object, and the stripes are bold and prominent. The lighting is bright, creating a high-contrast scene.

—

prevention,
investigation,
detection or
prosecution of
criminal offences
[and] public security

3. the territorial scope of the gdpr



territorial scope

Article 3

Territorial scope

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.
2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:
 - a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
 - b) the monitoring of their behaviour as far as their behaviour takes place within the Union.
3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.

territorial scope

in the context of the activities of an establishment of a controller or a processor in the Union

- regardless of whether the processing takes place in the Union or not.

data subjects who are in the Union by a controller or processor not established in the Union

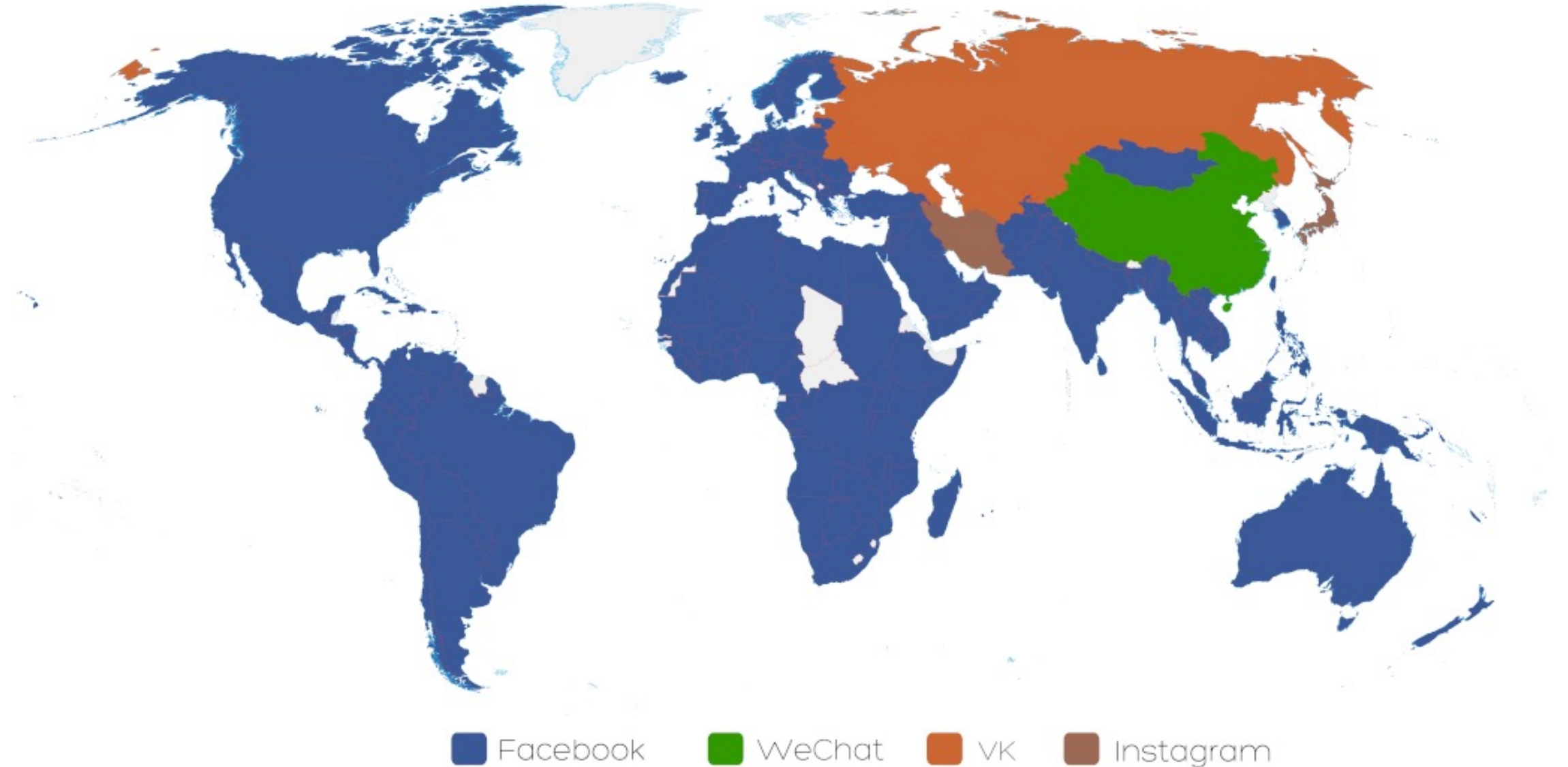
- the **offering of goods or services**, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
- the **monitoring of their behaviour** as far as their behaviour takes place within the Union.

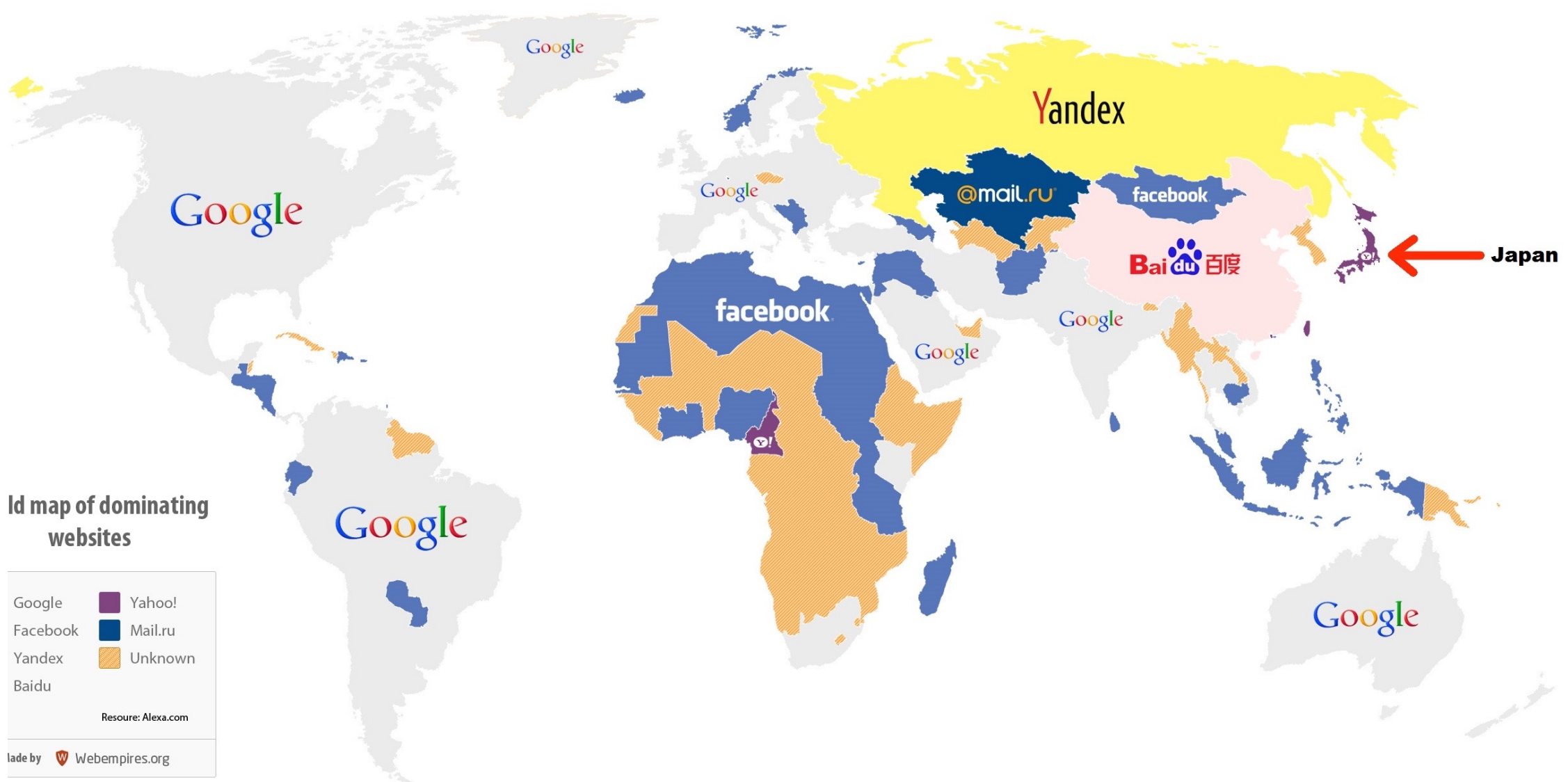
applies to the processing of personal data by a controller not established in the Union,

- but **in a place where Member State law applies by virtue of public international law.**

WORLD MAP OF SOCIAL NETWORKS

January 2022





Id map of dominating websites

Google	Yahoo!
Facebook	Mail.ru
Yandex	Unknown
Baidu	

Resoure: Alexa.com

made by Webempires.org



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Scherms (the beginning)