

ADGM Data Protection Regulations 2021 Update



ABU DHABI
GLOBAL MARKET




4 August 2021
Office of Data Protection

Questions will be answered during Q&A Panel Session

Please note, this webinar will be recorded and will be published on the ADGM website under events



[COVID-19](#) [Initiatives](#) [Companies search](#) [Legal framework](#) [eServices](#) 

[About ADGM](#) [Setting up](#) [Operating in ADGM](#) [ADGM Authorities](#) [Spotlight](#) [Q](#)



Events



AGENDA

Data Protection – a brief history

ADGM Data Protection Journey

Overview of the ADGM DPR 2021

Key Terms, Definitions and Dates

Key Dates

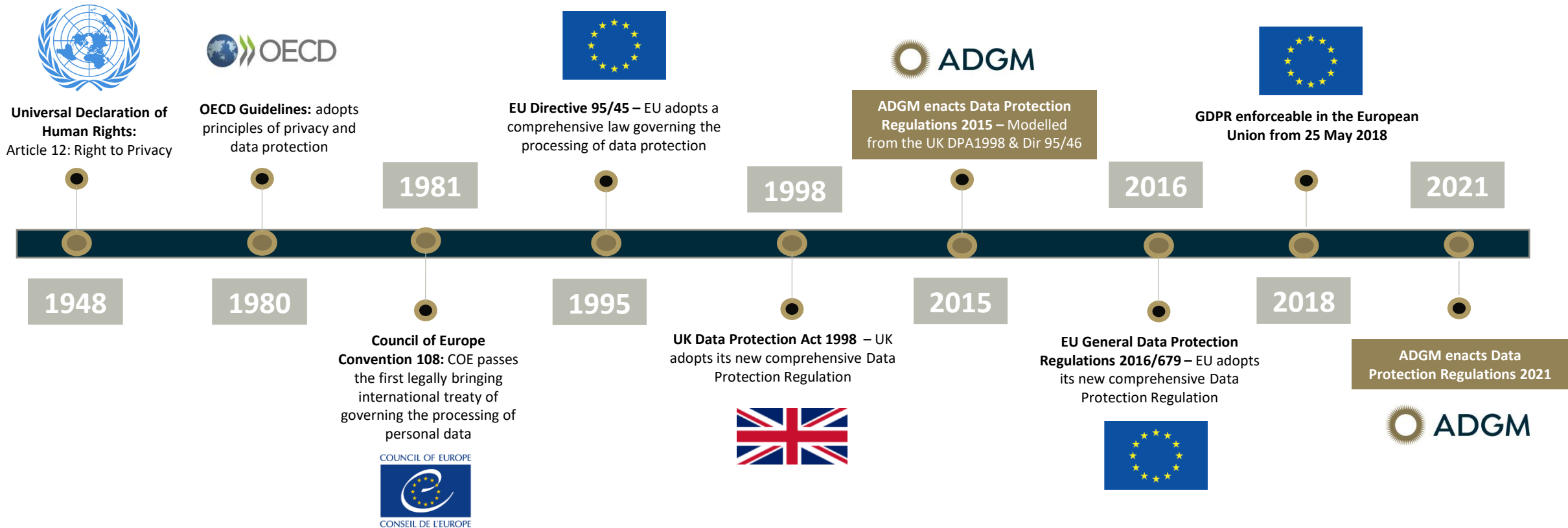
Comparison between 2015-2021

Principles and Individual Rights

Data Transfers

Guidance

Data Protection – a brief history



DID YOU KNOW - there are approx. 130+ jurisdictions with some form of Data Protection / Privacy law?

ADGM Data Protection Regulations 2021 – the Journey

On 11 February, ADGM enacted the new Data Protection Regulations 2021

- ADGM Registration Authority embarked on a legislative update **in January 2020** with a leading international law firm to update the Data Protection Framework.
- ADGM conducted an international benchmark of jurisdictions and data protection frameworks such as the **EU GDPR, the UK DPA 2018, Singapore PDPC, Council of Europe Convention 108**.
- Public consultation **in November 2020**
- Feedback was received globally from the Middle East, Europe and Asia Pacific. Consultation received feedback from industry bodies, financial firms, law firms and other Regulators. **Overwhelming endorsement** of ADGM's approach to align to EU GDPR and the UK Data Protection Act 2018. **Consistency** being key underlying theme.
- ADGM Board of Directors were presented with the draft Law in February 2021

Overview of the new ADGM Data Protection Regulations

On 11 February, ADGM enacted the new Data Protection Regulations 2021



ADGM Data Protection Regulations 2021 (DPR 2021) was **published on 14 February 2021**

The DPR 2021 **repeals the 2015 Regulations**

- The DPR 2021 was **developed and benchmarked with international best practice standards** such as the **European Union's GDPR**, the **UK Data Protection Act** and the **Council of Europe's' Convention 108+**
- **DPR 2021 includes some limited exemptions to support SMEs**
- **The DPR 2021 applies to registered entities as well as ADGM public authorities**

Structure of the DPR 2021

Parts	Relevant Articles	Information
I	Articles 1-3	General Provisions – Scope and Application
II	Articles 4-9	Principles and Lawful Basis for Processing
III	Articles 10-21	Rights of the Data Subject
IV	Articles 22-39	Controller and Processor Responsibilities
V	Articles 40-46	Data Transfers
VI	Articles 47-53	Office of Data Protection
VII	Articles 54-59	Fines and Remedies
VIII	Articles 60-64	Final Provisions – Rules and Definitions



Key Terms and Definitions

Terms	Definition
Personal Data	means any information relating to a Data Subject;
Data Subject	means an identified or identifiable living natural person ; an identifiable natural person is one who can be identified, directly or indirectly ;
Processing	means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means , such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
Controller	means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data ;
Processor	means a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Controller ;
Establishment	means any authority, body corporate, branch, representative office, institution entity , or project established, registered or licensed to operate or conduct any activity within the ADGM or exempt from being registered or licensed under the laws of the ADGM;

Applicability, Material and Territorial Scope

The DPR 2021 applies to the processing of Personal Data

Provision	Applies	Doesn't apply
Material Scope (Art. 2)	These Regulations apply 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 forms part of a Filing System or is intended to form part of a Filing System . Files or sets of files, as well as their cover pages, which are not structured according to specific criteria do not fall within the scope of these Regulations.	<ul style="list-style-type: none">- unstructured personal data (Art. 2(2)(a))- household activity by individuals (Art. 2(2)(b))- Public 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 national security.
Territorial scope (Art. 3(1))	These Regulations apply to the Processing of Personal Data in the context of the activities of an Establishment of a Controller or a Processor in ADGM , regardless of whether the Processing takes place in ADGM or not.	<ul style="list-style-type: none">- Processing undertaken outside of the ADGM by an entity not Established in ADGM;- Processing undertaken outside of ADGM and not processed in the context of the activities of an Establishment in ADGM.

Key Dates and Timeline









The DPR 2021 has two phase effective date

<i>Criteria</i>	<i>Transition Period</i>	<i>Effective Date</i>
Entities established after the 14 February 2021	6 months	14 August 2021
Entities established on or before 14 February 2021	1 year	14 February 2022



NOTE: the DPR 2015 will continue to apply until the relevant effective date. You must ensure you remain compliant with your existing obligations including notification.

Comparison – 2015 Regulations v 2021 Regulations

Topic	2015 DPR	2021 DPR	KEY CHANGE
Scope	Processing applies in the ADGM only	 Enhanced	Processing in the context of activities of a Controller or Processor in ADGM (extraterritorial).
Data Protection Principles	Processing of Personal Data must be in accordance with the principles.	 Enhanced	Introduces new Principle of accountability and emphasis on transparency
Data Subject Rights	Individuals are provided with certain rights over their personal data.	 Enhanced	Introduces right to portability, restriction, objection and right to not be subjected to automated decision making / profiling
Processor obligation	No specific obligation / responsibility	 Added	Controllers must put in place safeguards with Processors (DPA, Audit, assurances and due diligence).
Data Protection Officer Appointment	No specific obligation	 Added	DPO must be appointed for certain entities based on their core activities (high risk, large scale processing activity)
Data Protection Impact Assessments	No specific obligation	 Added	Must conduct a DPIA where a project or initiative involving PD is likely to result in a 'high' risk to the rights and freedoms of individuals
Data Transfer Rules	Personal data cannot be transferred without relying on a adequacy, safeguard or exemption,	 Consistent	Removal of permits and fees relating to the transfer. Rest remain consistent
Notifications	Notifications must be made to the Office of Data Protection for various activities and tasks.	 Enhanced	72hrs without undue delay for data breach, BCRs approvals, DPIA, DPO appointment/cessation. Removal of Processor notification and sensitive data processing permit.

The Principles (Article 4)

All Controllers **MUST** process personal data in accordance with the following Principles:



Lawfulness, Fairness
and **Transparency**

Purpose Limitation



Storage Limitation



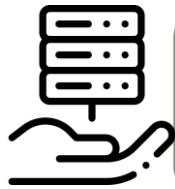
Accountability



Accuracy



Data Minimization

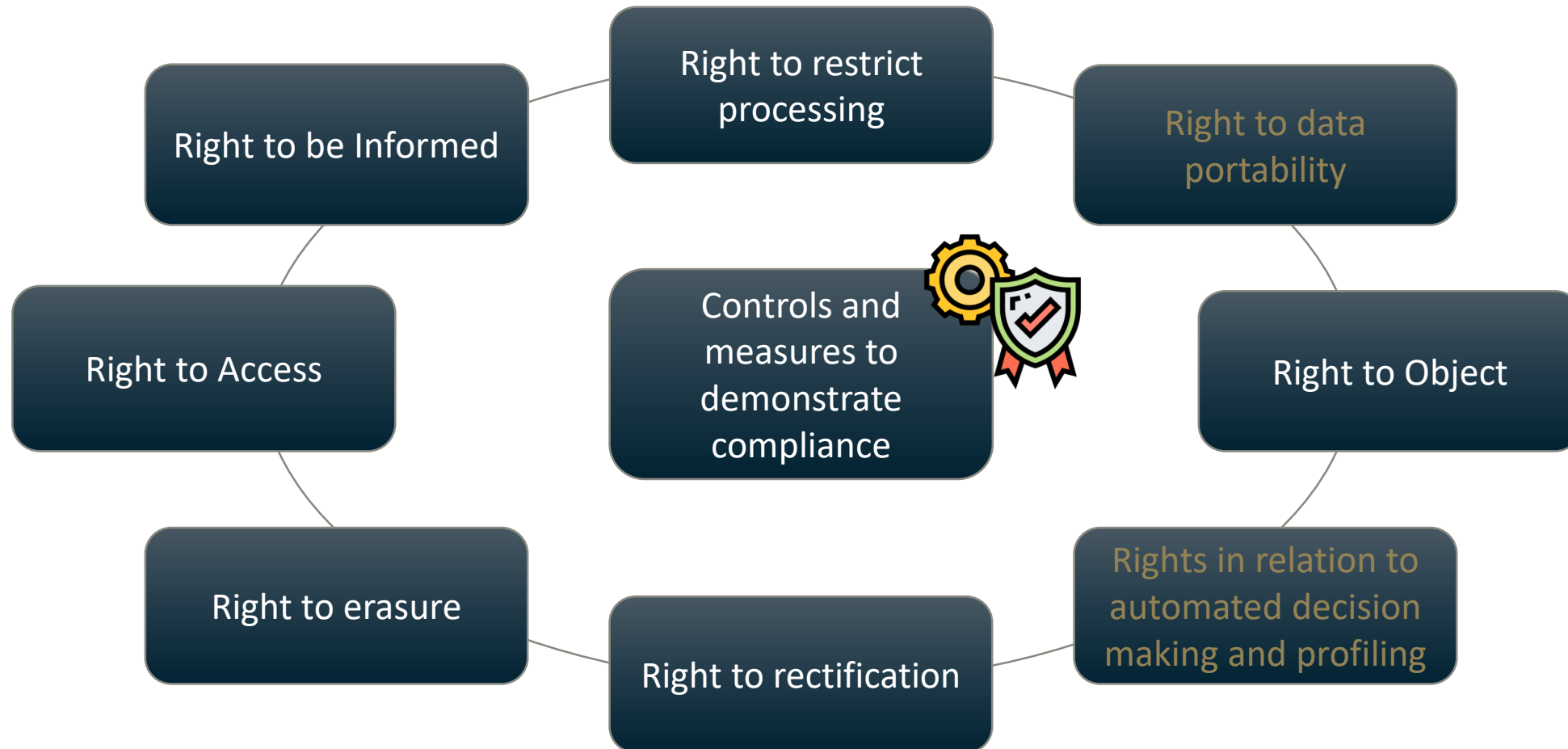


Integrity and
Confidentiality



Individual Rights (Part III)

Individuals have the following rights under the DPR 2021



Obligations on Data Controllers and Processors under DPR 2021 – High Level

- **Data Protection Officer** appointment for certain entity types.
- Maintain a **Record of Processing Activity** for all activities involving Personal Data.
- Implement **Data Protection Agreements** with Processors.
- Be able to **Demonstrate** compliance with the Principles of the DPR 2021.
- Put controls and measures in place to **manage individual rights requests**.
- Conduct **Data Protection Impact Assessment** for projects and initiatives that may result in a high risk to the rights and freedoms of individuals.



Data Transfers

Transfer provisions are to ensure safeguards follow the data

(1) Adequacy Decision	(2) Suitable Safeguards	(3) Derogations / Exemptions
Can you rely upon an adequacy decision for the transfer to a third country / jurisdiction?	If the jurisdiction is not listed is not deemed adequate by ADGM, you must consider suitable safeguards:	If you cannot rely on (1) or (2), you may rely on a derogation for infrequent transfers:
<ul style="list-style-type: none">• European Union	<ul style="list-style-type: none">• Standard Contractual Clauses	<ul style="list-style-type: none">• Consent of the DS
<ul style="list-style-type: none">• United Kingdom	<ul style="list-style-type: none">• Binding Corporate Rules	<ul style="list-style-type: none">• Necessary for the performance of a contract.
List available on the ODP website: https://www.adgm.com/operating-in-adgm/office-of-data-protection/jurisdictions	ODP will soon publish ADGM SCCs which are aligned to the new EU SCCs – including modular approach that covers C-C, C-P, P-P and P-C transfers.	

Guidance

ODP has developed a suite of Guidance Documents for the DPR 2021

Guidance

Part 1 – Introduction, Overview Lawful Basis and Definitions

Part 2 – Individual Rights

Part 3 – Processors, Fees and DPOs

Part 4 – Data Protection Impact Assessments

Part 5 – Security and Breach Notifications

Part 6 – International Transfers

Part 7 – Code of Conduct and the Office of Data Protection

Part 8 – Individual Rights and Remedies

Templates

Data Protection Impact Assessment

Appropriate Policy Document

Assessment

Applicability of the DPR 2021

Do I need to appoint a DPO?

Data Breach Notification

<https://www.adgm.com/operating-in-adgm/office-of-data-protection/guidance>

Panel Session

