

COMPANIES NOT ESTABLISHED IN THE EUROPEAN UNION AND GENERAL DATA PROTECTION REGULATION

ABSTRACT

The European General Data Protection Regulation (GDPR) shall apply from 25 May 2018. The GDPR obliges to designate in writing **a representative in the European Union (the Union) for those companies and entities not established in the Union** but who process personal data of data subjects who are in the Union, either in connection with the offering of goods and services to those individuals, or with the monitoring of their behaviour within the Union.

The [European General Data Protection Regulation \(GDPR\)](#), Regulation EU 2016/679 of 27 April 2016, shall apply and be binding in its entirety and directly applicable in all Member States. The GDPR is based upon the 'accountability principle' of companies and entities, which means that each company or entity shall be responsible for, and be able to demonstrate compliance with the regulation (arts. 5.2 & 24.1 GDPR).

The GDPR 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 (art. 3.2 GDPR).

In those cases, the company shall **designate in writing a representative in the Union (art. 27.1 GDPR), who shall be established in one of the Member States** where the data subjects, whose personal data are processed in relation to the offering of goods or services to them, or whose behaviour is monitored, are (art. 27.3 GDPR), **to be addressed in addition to or instead of the company by, in particular, supervisory authorities and data subjects** (art. 27.4 GDPR).

In addition, the GDPR 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 (art. 3.3 GDPR).

RCD is a leading independent, dynamic and innovative law firm and a reference for providing comprehensive legal advice, and has extensive experience in all Legal areas, and in privacy and data protection as well. We offer customized advice on data protection to entities not-established in the European Union which process personal data of data subjects who are in the Union, adjusted to the particularities of each entity and sector.

The priority that each company or institution grants to compliance with the GDPR and the transparency with which it is addressed will be competitive and differentiating factors of each entity.

DO YOU HAVE ANY QUESTIONS?

We in the Privacy and Data Protection Department work to clarify any doubts or questions regarding the new regulation and how it could affect the activity of various businesses and organizations. If you have any questions, please do not hesitate to contact us.

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