

The General Data Protection Regulation (GDPR) National Implementation Tracker

With the assistance of colleagues across the EU, Latham & Watkins has updated its GDPR National Implementation Tracker.

With just over three months to go until the GDPR go-live date on 25 May 2018, two EU member states (Belgium, Slovakia) have joined Austria and Germany in successfully implementing the GDPR in their national laws.

Since our last update in October 2017:

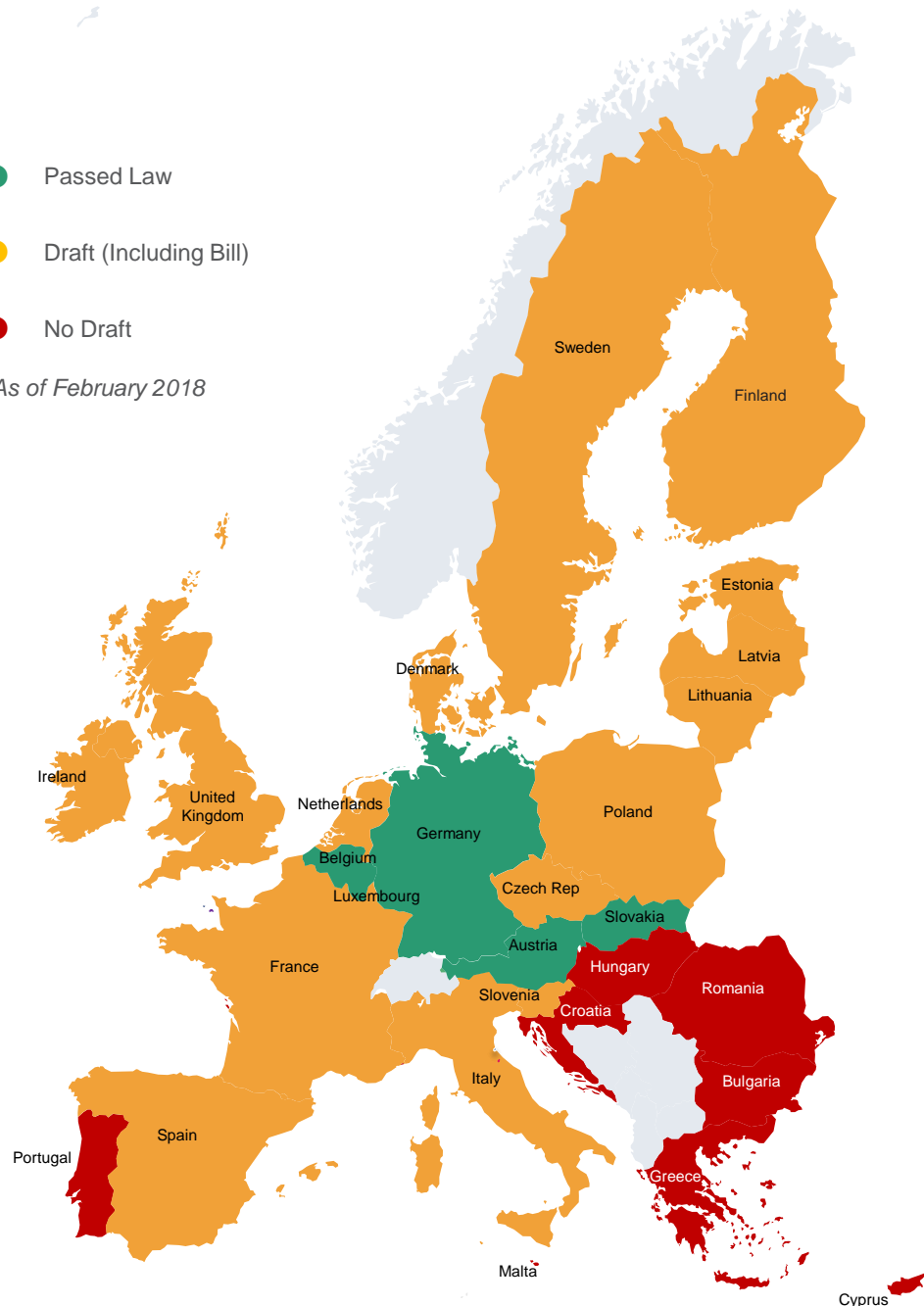
- Six additional member states have published draft implementing legislation for a total of 16 member states with legislation in progress.
- Eight member states, however, still have yet to publish any draft.

As the various member state legislation take shape, we will provide further updates on the implementation process. We will also compile an analysis of key areas of derogation from the GDPR for each member state in relation to bases for processing special personal data, exemptions to data subject rights or notice requirements, additional sanctions for breach, and others.

Stay updated at globalprivacyblog.com.

- Passed Law
- Draft (Including Bill)
- No Draft

* As of February 2018



Country	Status	Approach	Contact
Austria	● The Austrian legislature published the national Data Protection Amendment Act 2018 (<i>Datenschutz-Anpassungsgesetz 2018</i>) on 31 July 2017. It will enter into force simultaneously with the General Data Protection Regulation on 25 May 2018.	<p>The Data Protection Amendment Act 2018 will replace most of the current Data Protection Act (<i>Datenschutzgesetz 2000</i>) and come into effect by May 2018. While the first three sections of the current Data Protection Act will remain in force (starting with section 4), the remainder will be replaced by the new provisions.</p> <p>The law <i>inter alia</i> includes specific regulations on CCTV and specific confidentiality privileges for Data Protection Officers. It also implements the provisions of the Law Enforcement Directive (2016/680) in a separate chapter (<i>Hauptstück</i>). However, for political reasons, the Data Protection Amendment Act 2018 is designed such that it will not amend provisions relating to the secrecy of data as it is currently enshrined in the Data Protection Act on a constitutional level.</p>	Günther Leissler Schoenherr
Belgium	● The Belgian Federal Parliament passed its GDPR-implementing legislation on 3 December 2017 (OJ 10 January 2018) (<i>Loi du 3 décembre 2017 portant création de l'Autorité de protection des données</i> – Law of 3 December 2007 creating the Data Protection Authority). The law will enter into force on 25 May 2018.	Under the new law, the Belgian Data Protection Authority replaces the previous Privacy Commission as the data privacy regulatory body.	Lore Leitner and Rita Motta Latham & Watkins
Bulgaria	● The Bulgarian Commission on Personal Data Protection is drafting a bill for the new Act on the Protection of Personal Data to implement the GDPR. At this stage, the draft bill is not publicly available. Publication of the bill for the new Act on the Protection of Personal Data is expected in February/March 2018.	No information available.	Anna Rizova Wolf Theiss
Croatia	● According to the Croatian Government's legislative plan (applicable from 14 July 2017), the adoption of the GDPR implementing statute was planned for the fourth quarter of 2017. The Ministry of Administration is responsible for drafting the implementing legislation, but no bill has yet been proposed and there is as yet no indication as to when a proposal will be published. The current agenda for the Croatian Parliament does not include the GDPR implementing statute in its current schedule, and so the earliest adoption date would be the second quarter of 2018.	No information available.	Olena Manuilenko Divjak, Topic & Bahtijarevic
Cyprus	● The Data Protection Authority in Cyprus is currently drafting the relevant bill. The bill is not yet publicly available and has not been submitted to the House of Representatives.	No information available.	Christiana Vassiliou Miliou Antis Triantafyllides & Sons

Country	Status	Approach	Contact
Czech Republic	<p>● A draft of a new Act on Data Processing (together with a draft of an act amending certain acts in connection with its adoption, while implementing the Passenger Name Record Directive (2016/681) and the Law Enforcement Directive (2016/680) was published by the Czech Ministry of Interior in August 2017 and entered the legislative procedure. It is unclear whether the new act will be enacted before 25 May 2018.</p>	<p>The current Data Protection Act shall be repealed and the new laws shall replace the existing data protection regulation in the Czech Republic.</p>	<p>Kateřina Kulhánková Wolf Theiss</p>
Denmark	<p>● The Ministry of Justice, the Danish Data Protection Authority, and other national authorities issued a joint, national report on the interpretation of the GDPR on 24 May 2017.</p> <p>The bill for the 'Data Protection Act' was presented to the Danish Parliament in October 2017 and is expected to be passed by Parliament on 20 February 2018.</p>	<p>The bill contains the following main points:</p> <ol style="list-style-type: none"> 1. The Data Protection Act and the GDPR shall apply to information about deceased persons for 10 years from the death of the person; 2. The age for children's consent under Article 8 is set at 13 years; 3. There is a very broad legal basis for processing of personal data relating to criminal convictions and offences; 4. There is a very broad legal basis for processing of data about national identification numbers; 5. In addition to the legal bases provided by the GDPR, the bill provides (in accordance with Article 88) that processing of employees' personal data in an employment context can take place if: <ol style="list-style-type: none"> a) the processing is necessary for the purposes of performing the controller's or the data subject's obligations and rights, as set out in other laws or a collective agreement; b) the processing is necessary for the purposes of the legitimate interests set out in other laws or a collective agreement pursued by the controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject; or c) the data subject has given consent in accordance with Article 7; and 6. The rights under Articles 13, 14, and 15 shall (in accordance with Article 23) not apply in the private sector if the interests of the data subject are overridden by compelling private interests, including the protection of the data subject. 	<p>Michael Hopp Plesner</p>

Country	Status	Approach	Contact
Estonia	● The bill for the implementation of the GDPR was published for consultations at the end of 2017. As the bill is in consultations, the drafting is subject to change and it is as yet unclear what derogations the Bill will make from the GDPR.	If passed, the bill would replace the current Estonian Personal Data Protection Act, and would implement both the GDPR and the Law Enforcement Directive (2016/680) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection, or prosecution of criminal offences or the execution of criminal penalties, the free movement of such data, and repeal Council Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.	Pirkko-Liis Harkmaa Cobalt
Finland	● In June 2017, a committee appointed by the Ministry of Justice published a proposal on next steps, including a draft reform bill. This proposal was made available for consultation in summer 2017 and the committee amended its proposal based on this feedback. The amended proposal is currently under review by the Legislation Evaluation Council. The final draft bill and government proposal have yet to be published.	The committee made the following three main proposals: <ol style="list-style-type: none">1. that a general national data protection law be enacted to implement the GDPR;2. that a new office be established for a new data protection regulator; and3. that fines for breach of the GDPR-implementing legislation be approved by a separate committee of five members to be appointed by the regulator.	Eija Warma Castrén & Snellman Attorneys
France	● The French Ministry of Justice released a draft bill on 13 December 2017 that was submitted to the Assemblée Nationale on the same day. The draft bill will undergo changes during the debate scheduled to begin before the Assemblée Nationale on 6 February 2018, and then before the Sénat on 15 March 2018. The bill will advance through a fast-track procedure and should be adopted before the 25 May 2018 deadline. The Government is currently drafting a decree which will formally complete the French Data Protection Act once amended.	This bill will amend Law No. 78-17 dated 6 January 1978 (the current French Data Protection Act) with the changes required by the GDPR. An ordinance – an act adopted by the Government and then ratified by the Parliament – will be adopted within six months of the enactment of the law to amend the current French Data Protection Act for uniformity and clarity.	Myria Saarinen Latham & Watkins
Germany	● The German Government passed an implementation act dated 30 June 2017. The Act is scheduled to become effective on 25 May 2018; however, one provision (introducing a right for data protection authorities to challenge the validity of decisions of the European Commission in a German court) took effect when the Act was published (see our blog post for further details). Further legislation at the state and federal levels (and some sector-specific laws, e.g. for postal services) will be required to finalise the implementation. Please note that state laws only concern the public sector.	The Act concentrates mainly on public law issues, but also introduces some specific rules on legal grounds, purpose limitation, notice requirements, HR data, credit reporting, and DPO requirements for the private sector (see our blog post for further details). The Coordination Group of the State and Federal Data Protection Authorities (<i>Düsseldorfer Kreis</i>) has published a first decision on the validity of consent clauses under the GDPR. The Group assumes that consent clauses valid under present law will likely be valid under the GDPR as well, despite the lack of a grandfathering clause for existing consent clauses under the GDPR. The Bavarian Data Protection	Ulrich Wuermeling and Joachim Grittmann Latham & Watkins

Country	Status	Approach	Contact
Germany (CONTINUED)	●	<p>Authorities have already published a collection of short guidelines on the application of the GDPR (including a model processor agreement) and other State Data Protection Authorities have since followed suit. The Bavarian Authority sent questionnaires regarding progress on meeting GDPR compliance targets to companies in Bavaria with a deadline of 25 May 2018. The Federal Conference of Data Protection Authorities has also published a number of short guidance papers regarding the GDPR.</p>	
Greece	●	<p>On 14 June 2016, the Minister of Justice, Transparency and Human Rights established a Legislative Law Committee to draft implementing legislation for the GDPR and to prepare a draft bill for the implementation of Law Enforcement Directive (2016/680). Given that the Legislative Law Committee has missed its deadline of 31 May 2017, an extension was granted until 31 December 2017. No further extension has been provided, so the proposed law should now be filed with the Ministry of Justice. Presuming that there are no further delays, we expect these laws to be enacted by the Greek Parliament by March/April 2018.</p>	<p>Mary Deligianni Zepos & Yannopoulos</p>
Hungary	●	<p>The Government proposal for the amendment of the Hungarian Data Protection Act (Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information) to implement the GDPR has not yet been put to public consultation. It is doubtful whether the 25 May 2018 deadline will be met since the spring 2018 session of the Hungarian Parliament is expected to last only a few weeks due to a general election scheduled for 8 April 2018.</p>	<p>János Tóth Wolf Theiss</p>
Ireland	●	<p>The Department of Justice and Equality (the “Department”) published the draft Data Protection Bill 2018 (the “Bill”) on 1 February 2018.</p> <p>The Bill was introduced in Ireland’s upper house of parliament and is currently at its first reading stage. The Bill will then pass through the committee stage, report stage and final stage, before being debated in Ireland’s lower house of parliament.</p> <p>The same process must be followed in Ireland’s lower house of parliament. Amendments must then be considered before the Bill is signed into law by the President.</p> <p>Given that the Bill must be enacted in time for both the 6 May 2018 deadline for the Law Enforcement Directive (2016/680) as well as the coming into force of the GDPR on 25 May 2018, the scope for major alteration is limited.</p>	<p>Philip Nolan and Oisín Tobin Mason Hayes & Curran</p>

Country	Status	Approach	Contact
Ireland (CONTINUED)	●	5. personal liability of company officers when an offence is committed with the “consent or connivance” of a “director, manager, secretary or other officer” of the body corporate; and 6. enabling a data subject to mandate a not-for-profit organisation to lodge a complaint with the Commission or to bring a judicial action, on his or her behalf, in regard to damage suffered as a result of a controller or processor infringing the GDPR.	
Italy	● The Italian Parliament passed a law (No. 163/2017), dated 25 October 2017 (effective 6 November 2017), delegating the Italian Government to issue a decree to update the current legislation and make it compliant with the GDPR. These decrees have not yet been issued. On 20 November 2017, Parliament issued a law (No. 167/2017) (effective 12 December 2017) which amended certain specific provisions of the Italian Data Protection Code.	Although the GDPR has yet to be implemented, Law No. 167/2017 recently introduced the following changes to the Italian Data Protection Code: 1. it added to Article 29 (on the data processor) paragraph 4-bis (which implements the terms and conditions of the appointment, the subjective requirements, and role of the data processor as outlined in Article 28 of the GDPR) and amended paragraph 5 in order to coordinate the duties of the data processor and the relationship between the data processor and the data controller with the new provision of paragraph 4-bis; and 2. it added the new Article 110-bis dealing with terms and conditions for the reuse of data for scientific research purposes or for statistical purposes. In addition, the Italian Data Protection Authority has issued guidelines dealing with: the lawfulness of processing; data subject rights (access, restriction of processing, right to be forgotten, data portability, right to object); risk-based approach and accountability; and international data transfers.	Laura Liguori and Adriano D'Ottavio Portolano Cavallo
Latvia	● The Ministry of Justice has prepared a new draft law ‘Personal Data Processing Law’ (<i>Personas datu apstrādes likums</i>) which will replace the current Personal Data Protection Law. On 13 September 2017, the draft law was presented for public consultation and will be further reviewed in the Meeting of State Secretaries. After being reviewed by private and state actors, the law will have to be adopted by the Parliament (<i>Saeima</i>) in three readings. No specific deadlines for this are currently available. The draft law also delegates powers to the Cabinet of Ministers to adopt special implementation rules.	The Ministry of Justice has taken a minimalistic approach and has tried to keep with the wording of the GDPR as much as possible. The draft law nominates the Data State Inspectorate as the supervisory authority in Latvia and specifies its rights and duties. The draft law also includes specific requirements for data protection officers and rules on certification and codes of conduct. Some exceptions for processing of personal data for archival, scientific, journalistic, and other purposes are also included. The draft law also makes an exception to Article 8 of the GDPR by setting the bar for processing personal data of children for provision of information society services at the age of 13 instead of 16.	Sarmis Spilbergs Ellex Klavins

Country	Status	Approach	Contact
Lithuania	<p>● The Ministry of Justice of the Republic of Lithuania has prepared and submitted a draft of the Law on Legal Protection of Personal Data to the relevant institutions and for public consideration.</p>	<p>The draft of the law mostly refers to the requirements of the GDPR and only sets forth (i) requirements for processing of national identification numbers (as per Article 87, GDPR); (ii) requirements for processing of personal data in the context of employment (Article 88, GDPR); and (iii) details of the competence of the local Data Protection Authority as well as its powers, tasks, and procedures for imposing a fine.</p> <p>The State Data Protection Inspectorate of the Republic of Lithuania announced that the following legal acts will be repealed after the GDPR comes into force:</p> <ol style="list-style-type: none"> 1. Order of the Director of the State Data Protection Inspectorate No. 1T-23(1.12.E) "On the approval of the rules of prior check" dated 22 June 2016; 2. Order of the Director of the State Data Protection Inspectorate No. 1T-24(1.12.E) "On the approval of forms of prior check" dated 22 June 2016; 3. Order of the Director of the State Data Protection Inspectorate No. 1T-71(1.12) "On the approval of general requirements for the organisational and technical measures for the protection of personal data" dated 12 November 2008; 4. Order of the Director of the State Data Protection Inspectorate No. 1T-25(1.12.E) "On the approval of forms of personal data protection measures description" dated 24 April 2015; 5. Order of the Director of the State Data Protection Inspectorate No. 1T-3(1.12.E) "On the approval of recommended forms for data processing reporting" dated 19 February 2016; and 6. Order of the Director of the State Data Protection Inspectorate No. 1T-1(1.12.E) "On the approval of exemplary rules for the processing of image data" dated 12 January 2016. <p>The State Data Protection Inspectorate intends to prepare and adopt the following legal acts no later than 30 April 2018:</p> <ol style="list-style-type: none"> 1. On the approval of the description of the procedure for the reporting of data breaches; 2. On the approval of the list of data processing operations for which it is required to perform data protection impact assessment; 3. On the approval of accreditation criteria; 4. On the approval of certification criteria; 5. On the approval of criteria for accreditation of certification bodies; 6. On the approval of the standard data protection clauses. 	<p>Jaunius Gumbis Ellex Valiunas</p>

Country	Status	Approach	Contact	
Luxembourg	●	A draft bill was issued on 12 September 2017 and is under discussion. It shall become effective alongside the GDPR.	This draft bill provides the Luxembourg Data Protection Supervisory Authority with the missions and powers needed to efficiently enforce the GDPR. It also contains some limitations, exemptions to the GDPR, and specific provisions complementing the GDPR, as the member states are authorised to take under the GDPR.	Sophie Wagner-Chartier and David Alexandre Arendt
Malta	●	The Ministry for Justice, Culture and Local Government and the Office of the Information and Data Protection Commissioner ("IDPC") are the national bodies responsible for implementing the requirements under the GDPR. The implementation time frame has not yet been made public; however, it is expected that all necessary amendments will be in place prior to May 2018.	The IDPC has indicated that the current Data Protection Act will be entirely repealed and the steering committee responsible for the implementation of the GDPR is in the last stages of reviewing final drafts for local legislation where member state discretion is provided for in the GDPR (e.g. rules relating to criminal sanctions). The IDPC has also indicated that it does not envisage special legislation on specific sectors being introduced under national legislation, as permitted by the GDPR, and that it is hoping to release sector-specific guidelines before May 2018, starting with guidelines relating to the banking sector. No local guidelines have been issued to date.	Henri Mizzi Camilleri Preziosi
Netherlands	●	The Dutch Government presented a new draft of the GDPR Implementation Bill (<i>Uitvoeringswet Algemene verordening gegevensbescherming</i>) ("Bill") on 13 December 2017 to the House of Representatives (<i>Tweede Kamer</i>) for debate. In this new draft, the comments received during the public consultation period were taken into account, as well as the advice provided by the Council of State (<i>Raad van State</i>). The Bill has been sent to the House of Representatives for debate. The House of Representatives has the right to amend the GDPR Implementation Bill, which means that the draft may still be subject to changes. Once the Bill has been decided upon by the Second Chamber, it needs to be accepted by the Senate (<i>Eerste Kamer</i>). The last formal step is obtaining royal assent. The aim is for the Bill to enter into force on 25 May 2018, but it is unclear whether this date will actually be met.	The legislature has taken a 'policy-neutral approach', meaning that – where possible under the GDPR – the requirements and exemptions that apply under the current data protection act are upheld. In other words, provisions that allow for member states to introduce derogations at a national level will, to a large extent, be employed in the Netherlands by using the wording currently used in the Dutch Data Protection Act.	Joanne Zaaijer Loyens & Loeff
Poland	●	The Polish Minister of Digital Affairs has prepared a draft of a new Act on Personal Data Protection that is to implement the provisions of the GDPR. On 13 October 2017, public consultations, which represent the first step of the official legislative procedure in Poland, were closed. The Minister of Digitalization plans to complete work on the draft bill by the end of January. The bill should be presented to the Parliament for the next rounds of discussions shortly thereafter.	The Polish Government intends to introduce a completely new Act on Personal Data Protection. The main goal of the new law is to ensure full effectiveness of all GDPR provisions under Polish law.	Peter Daszkowski Wolf Theiss

Country	Status	Approach	Contact
Portugal	● Draft legislation to implement the GDPR has not yet been published. However, we understand from media reports that draft legislation has started the legislative process and should go to the Council of Ministers for approval before the end of February.	<p>Governmental Order no 7456/2017 demands the creation of a Working Party responsible for the implementation of the GDPR and for the necessary legal adjustments to the present, national framework. In accordance with the Governmental Order, the Working Party was:</p> <ol style="list-style-type: none"> to carry out a public consultation, which closed 30 September 2017; to identify the security rules deriving from the GDPR when processing personal data and any necessary changes concerning the institutional architecture needed for the implementation of the GDPR; and to present a preliminary proposal for the national law implementing and complying with the GDPR by 31 December 2017. 	Isabel Bairrao Garrigues
Romania	<p>● According to verbal information received from the representatives of the Romanian Data Protection Authority (“RDPA”) on a non-official basis, the legal act to implement the GDPR in Romania is currently being drafted. No draft has been published so far, nor is there any public information on any expected publication date.</p> <p>A draft bill for the amendment of Law No. 102/2005 (regarding the setting up, organisation, and functioning of the RDPA) to meet the requirements of the GDPR was recently published and is currently under debate at the Ministry for Internal Affairs.</p>	Aside from an amendment to the bill relating to the establishment of the RDPA, no information on the implementation of the GDPR in Romania is available.	Maria Maxim Wolf Theiss
Slovakia	● On 29 November 2017, the Slovak Parliament adopted a bill which repealed the incumbent Act on Data Protection (No. 122/2013 Coll.), and implements the GDPR effective 25 May 2018. The bill also implements the provisions of the Law Enforcement Directive (2016/680).	The new Act more or less mirrors the main provisions of GDPR, and also contains provisions dealing with proceedings before the Data Protection Office (“DPO”), the status of the DPO, codes of conduct, certification, and imposing of fines by the DPO.	Katarína Bieliková Wolf Theiss
Slovenia	● In January 2018, the Ministry of Justice published a draft of the new Personal Data Protection Act (ZVOP-2) for a second round of public consultation. The window granted to stakeholders to provide comments will have closed on 2 February 2018. The aim is that the new Personal Data Protection Act (ZVOP-2) will enter into force on 25 May 2018, replacing the existing Personal Data Protection Act (ZVOP-1).	The draft act includes national derogations based on the opening clauses in the GDPR (e.g. rights of the deceased, consent of minors, and freedom of speech in relation to data processing). Additionally, the draft act contains specific regulations on video surveillance, biometrics, and direct marketing, and implements the provisions of the Law Enforcement Directive (2016/680) in a separate chapter.	Klara Miletič Wolf Theiss

Country	Status	Approach	Contact
Spain	<p>● In June 2017, the Spanish Government published a draft Basic Act of Personal Data Protection (the “Act”) to replace the current Act from 1999 (<i>Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal</i>). The term granted to stakeholders to provide comments closed on 19 July 2017. On 24 November 2017, the Council of Ministers approved the draft Act and passed it to Parliament for its deliberation and approval during the 2017/2018 session. The aim is that the new Act will enter into force simultaneously with the GDPR on 25 May 2018.</p>	<p>The draft Act includes some derogations from the GDPR. These differences concern certain rights and obligations already regulated in the GDPR (e.g. rights of deceased persons; obligation to maintain data secrecy; data subject’s consent; consent of minors; processing of special categories of personal data; processing of professional contact data; employee video surveillance; right to data portability; data protection officers; and data protection breaches).</p>	<p>Sergio Miralles and Sergio de Juan-Creix Intangibles</p>
Sweden	<p>● On 21 December 2017, the Swedish Government referred a draft bill to the Swedish Council on Legislation (<i>Sw. Lagrådet</i>). On 25 January 2018, the Council on Legislation presented its statement regarding the draft bill. Following the receipt of the statement from the Council on Legislation regarding the draft bill, the Government will issue a draft bill to the Parliament.</p>	<p>The draft bill proposes that the Swedish Personal Data Act and the Swedish Personal Data Ordinance shall be repealed and that supplementary provisions of a general nature shall be collected in a new overall act and ordinance on data protection.</p> <p>Other investigations with regard to sector-specific legislation are ongoing, and additional suggested amendments to the Swedish “register statutes” or other sector-specific regulations on data processing might be expected.</p>	<p>Caroline Olstedt Carlström and Sara Hovstadius Advokatfirman Lindahl</p>
United Kingdom	<p>● The Department for Digital, Culture, Media and Sport (“DCMS”) published the draft Data Protection Bill (“Bill”) on 14 September 2017.</p> <p>The Bill has completed its House of Lords stages with amendments on 18 January 2018. The Bill will shortly enter the first committee stage in the House of Commons for a line-by-line examination and amendment of its clauses, and a report stage to give all Members of Parliament a further opportunity to amend the Bill. The third reading in the House of Commons is the final opportunity to amend the Bill and is used to make sure that the Bill is workable and without loopholes.</p> <p>Amendments from both Houses of Parliament must then be considered before Royal Assent is given, at which point the Bill will become an Act of Parliament.</p>	<p>DCMS has confirmed the Bill will implement the GDPR fully, despite Brexit.</p> <p>The Bill deals with certain types of data processing for law enforcement and intelligence services, introduces new offences relating to personal data, and contemplates how the GDPR will be implemented post-Brexit.</p>	<p>Gail Crawford Latham & Watkins</p>