



# **WSGR**

## **Data inventories under the GDPR**

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# Agenda

- Introduction.
- Data inventory, DPO & DPIA.
- In practice.
- What's in it for you?
- Sanctions.
- Q & A.



# Introduction

# GDPR: Where do we stand?

1995: adoption of the current Data Protection Directive

2012: EU Commission's proposal for a GDPR

April 2016: adoption of the final text of the GDPR

14 months left to prepare for the GDPR

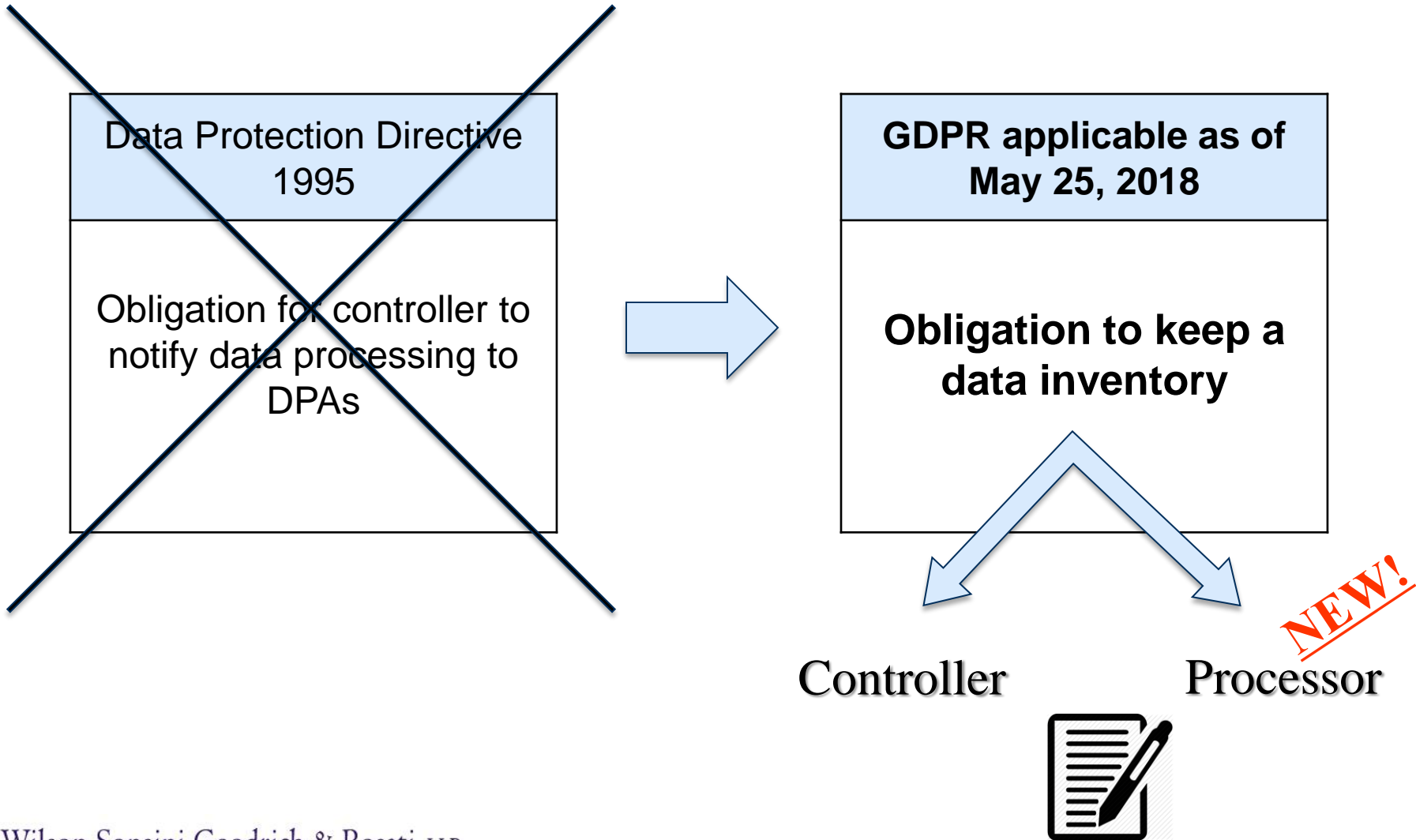
**May 25, 2018: DEADLINE**

**GDPR will apply in all EU member states**

# Getting the terminology right

Personal Data	Data Controller	Data Processor
<p>Any information relating to an:</p> <ul style="list-style-type: none"> <li>- identified</li> <li>or</li> <li>- identifiable</li> </ul> <p>individual.</p> <p>As soon as individuals can be singled out (e.g., online identifiers).</p>	<p>The entity that, alone or jointly with others, determines:</p> <ul style="list-style-type: none"> <li>- the purposes (“why”) and</li> <li>- the means (“how”) of the data processing.</li> </ul>	<p>The entity that processes personal data:</p> <ul style="list-style-type: none"> <li>- on behalf of and</li> <li>- under the instructions of the controller.</li> </ul>

# Goodbye, registrations! Hello, data inventories!



# Who is concerned?



**You!**

*Unless...*



Unless organization employs less than 250 persons

*Unless...*



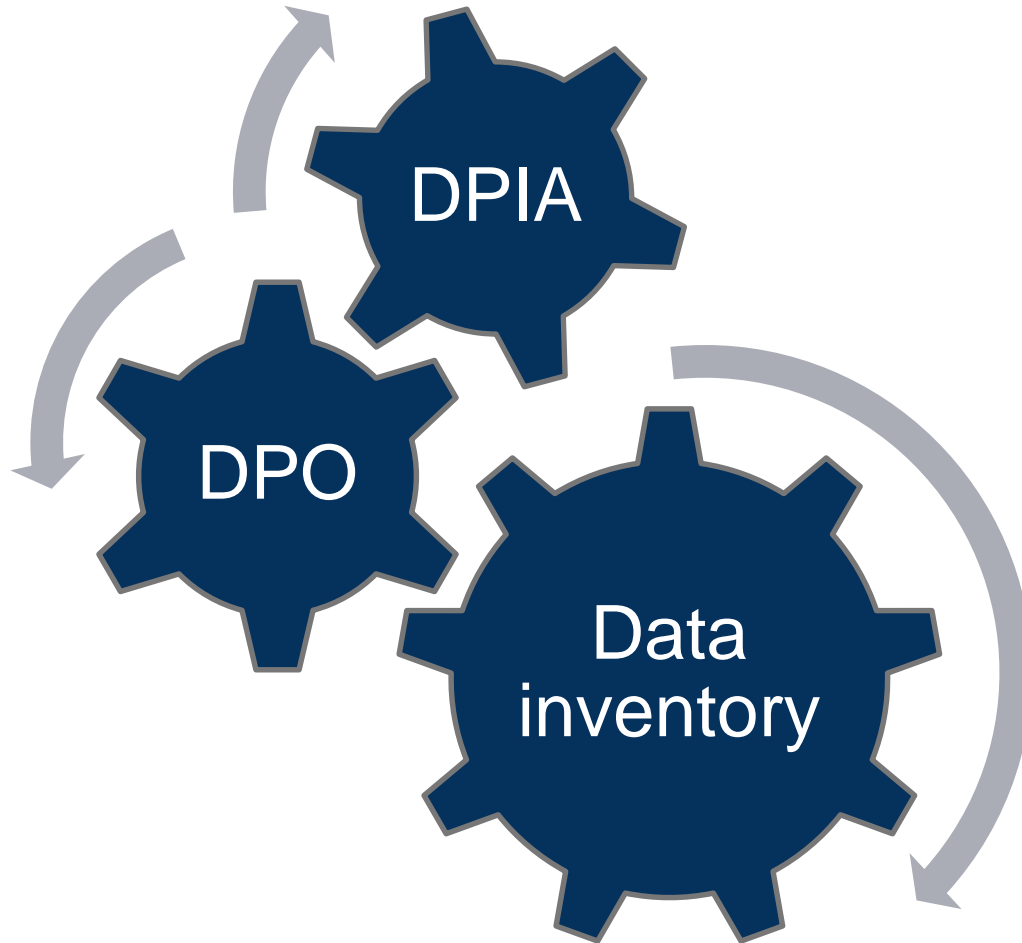
- There is a risk for the rights and freedoms of individuals.
- The processing is not occasional.
- Sensitive data is processed (racial origin, religion, sex life, biometric data etc.).
- Data relating to criminal convictions and offences is processed.



# Data inventory, DPO & DPIA



# New triangle system



## *Article 29 WP guidance on DPO (December 2016)*

Under Article 30(1) and (2), it is the controller or the processor, not the DPO, who is required to 'maintain a record of processing operations under its responsibility' or 'maintain a record of all categories of processing activities carried out on behalf of a controller'.

In practice, DPOs often create inventories and hold a register of processing operations based on information provided to them by the various departments in their organisation responsible for the processing of personal data. This practice has been established under many current national laws and under the data protection rules applicable to the EU institutions and bodies.<sup>37</sup>

Article 39(1) provides for a list of tasks that the DPO must have as a minimum. Therefore, nothing prevents the controller or the processor from assigning the DPO with the task of maintaining the record of processing operations under the responsibility of the controller. Such a record should be considered as one of the tools enabling the DPO to perform its tasks of monitoring compliance, informing and advising the controller or the processor.

# Data inventory and DPIA

Data inventory	DPIA
<ul style="list-style-type: none"> <li>• For <b>all</b> processing activities.</li> <li>• For <b>both</b> Controllers and Processors.</li> <li>• Content is limited to <b>description</b> of processing (type of data, purpose etc.).</li> <li>• Made available to DPA <b>upon request</b>.</li> </ul>	<ul style="list-style-type: none"> <li>• Only for “<b>high risk</b>” processing.</li> <li>• Only for <b>Controllers</b>.</li> <li>• Contains an <b>assessment</b> of impact of processing on data protection.</li> <li>• <b>Mandatory</b> prior consultation of DPA if DPIA indicates “high risk” in absence of mitigating measures.</li> </ul>



# In practice

## Data Controller & Data Processor

- the **name and contact details of the controller / processor** (+ if applicable, of the representatives, the joint controller and the DPO).
- where applicable, **transfers of personal data** to third countries, including:
  - ▶ which country?
  - ▶ documentation of suitable safeguards if the transfer is based on legitimate interests.
- general description of the **technical and organizational security measures** (“where possible”).

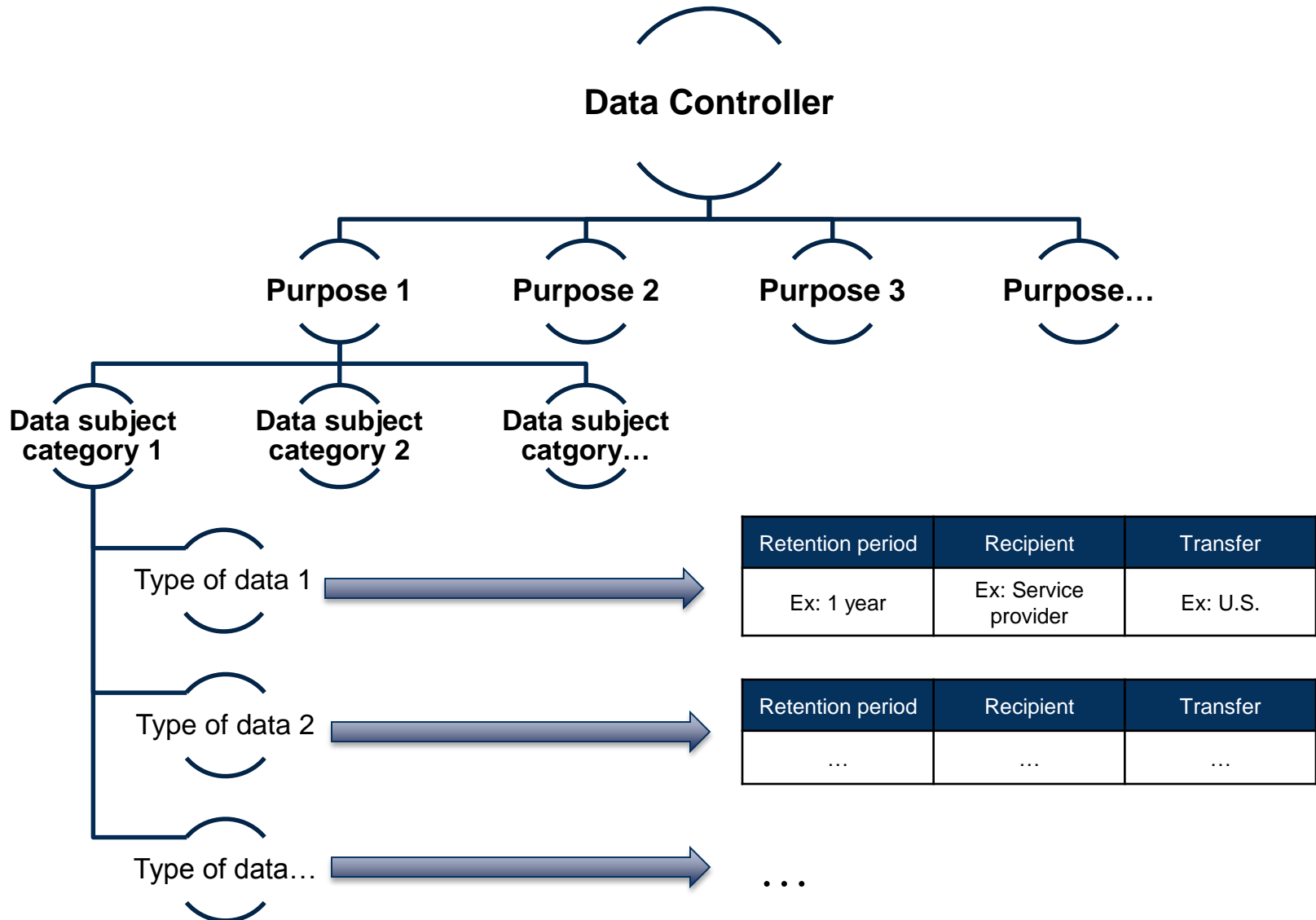
### Data Controller

- **purposes** of the processing.
- categories of:
  - **data subjects.**
  - **personal data.**
  - **recipients.**
- **retention periods** (“where possible”).

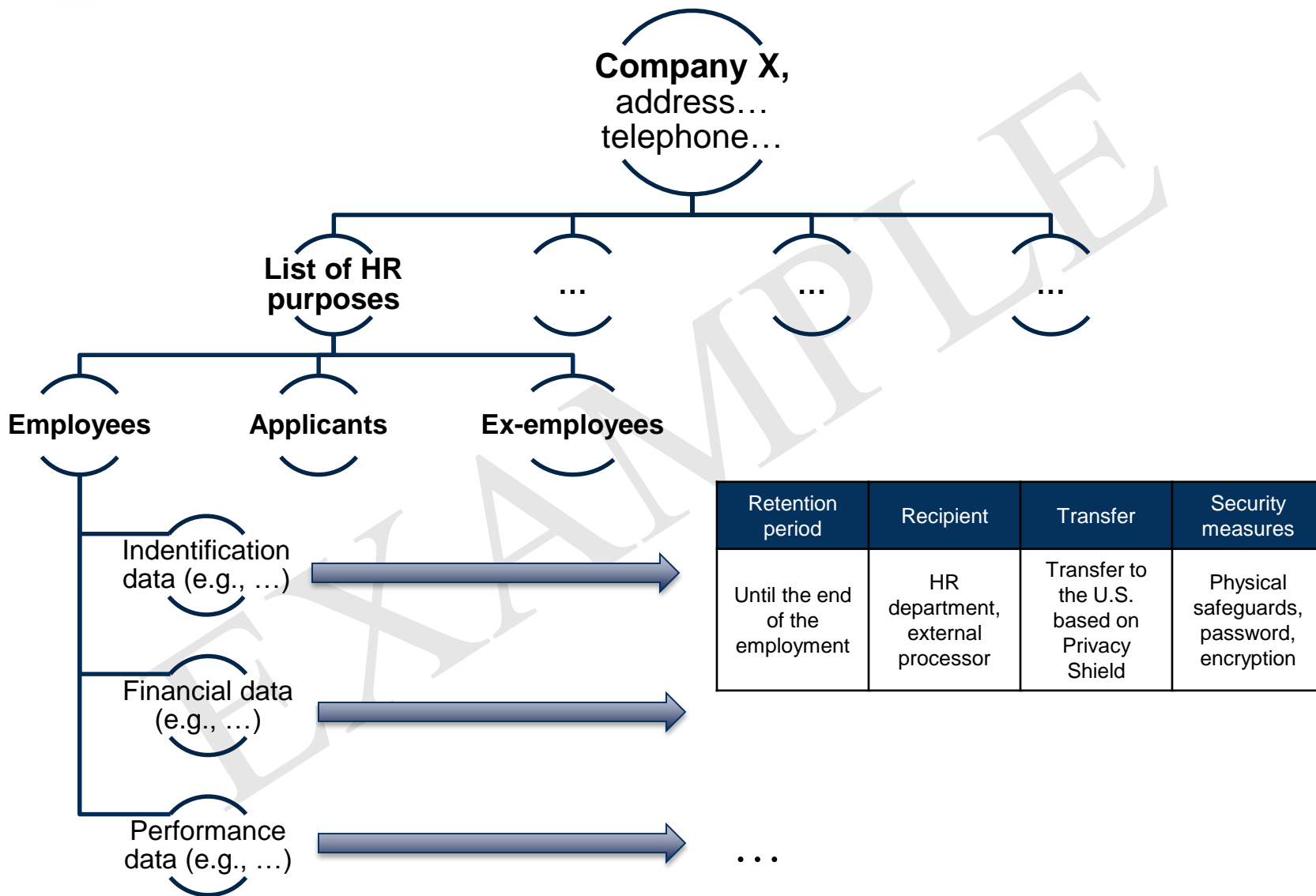
### Data Processor

- name and contact details of **each controller.**
- **categories of processing** carried out on behalf of each controller.

# Example of an approach to a data inventory



# W&GR Example of an approach to a data inventory



## **Preparation:**

- ✓ Identify roles & responsibilities within company.
- ✓ Prepare data inventory template (in writing, including in electronic form). Consider additional useful data fields (e.g., notice, consent).
- ✓ Monitor guidance from Belgian and other DPAs, WP29 / EDPB.

## **Getting started:**

- ✓ Gather existing resources (e.g., DPA registrations, previously conducted DPIAs) and obtain input from all departments (e.g., audit, questionnaires).
- ✓ Complete inventory.

## **Keep inventory up-to-date:**

- ✓ Implement internal procedures to be informed of any changes / new processing activities.
- ✓ Organize trainings for employees.





**What's in it for you?**

# What's in it for you? (1/2)

➔ *Compliance and accountability*



**BUT ALSO:**

**Your data inventory**

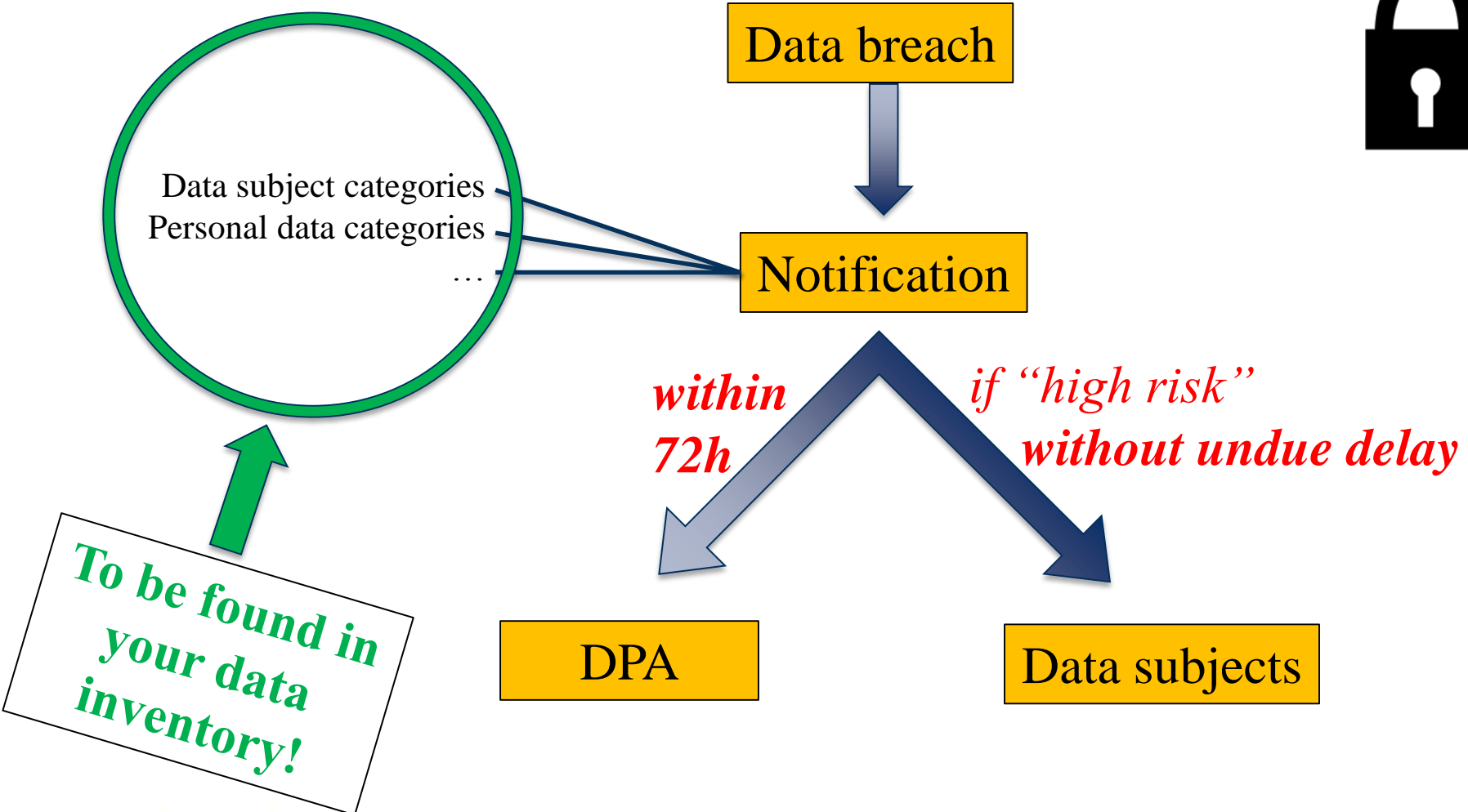


**Your  
personal organizer,  
instruction guide,  
to-do list and calendar**

**FOR ALL OTHER  
GDPR  
OBLIGATIONS**

# What's in it for you? (2/2)

Example for a Controller





# Sanctions

# GDPR fines for non-compliance with data inventory requirements

As of May 25, 2018



**up to € 10 000 000**

or

**2 % of the total worldwide annual turnover**

of the preceding financial year

(whichever is higher)



**Questions?**



**Thank you!**

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## WSGR Resources

- WSGR Data Advisor: [www.wsgrdataadvisor.com](http://www.wsgrdataadvisor.com)
- WSGR EU Data Protection Observatory: [www.wsgr.com/EUDataRegulation](http://www.wsgr.com/EUDataRegulation)
- Articles:
  - C. Kuner, C. Burton, L. De Boel, S. Hoffman, S. Cadiot, "[New EU Data Protection Regulation Is Now Enacted](#)", WSGR Alert, 14 April 2016
  - C. Burton, L. De Boel, C. Kuner, A. Pateraki, S. Cadiot and S. Hoffman, "[The Final European Union General Data Protection Regulation](#)", BNA Privacy & Security Law Report, 25 January 2016
  - C. Burton, L. De Boel, S. Cadiot, "[Political Agreement Reached for New EU Data Protection Regulation—Official Adoption Around the Corner](#)", WSGR Alert, 15 December 2015
  - C. Burton, L. De Boel, C. Kuner, A. Pateraki, "[The Proposed EU Data Protection Regulation Three Years Later: The Council Position](#)", BNA Privacy & Security Law Report, 29 June 2015
  - C. Burton, L. De Boel, S. Cadiot, "[EU Reaches Milestone Towards the Adoption of Revised Data Protection Framework](#)", WSGR Alert, 15 June 2015