

Draft General Data Protection Regulation - Keynote Presentation

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1995 EU Data Protection Directive

- Regulates “processing” of “personal data”
 - “data subjects” – live humans; non-EEA too
 - exceptions - household, national security etc
- Purpose
 - free flow within EEA + protect PD
- Not harmonised ! e.g. security

DPD obligations / liability

- “Personal data” - trigger
- Automated “processing” – v. broad, > IT definition
 - Storage, transmission, display too
- Obligations on “controller” (non-EEA too)
 - Determines “purposes & means” (people, charities)
 - Must comply with DP principles on processing PD
 - fairness, minimisation, purposes, security, deletion etc.
 - “transfer” of PD outside EEA restricted
 - Incl. on use of “processors”

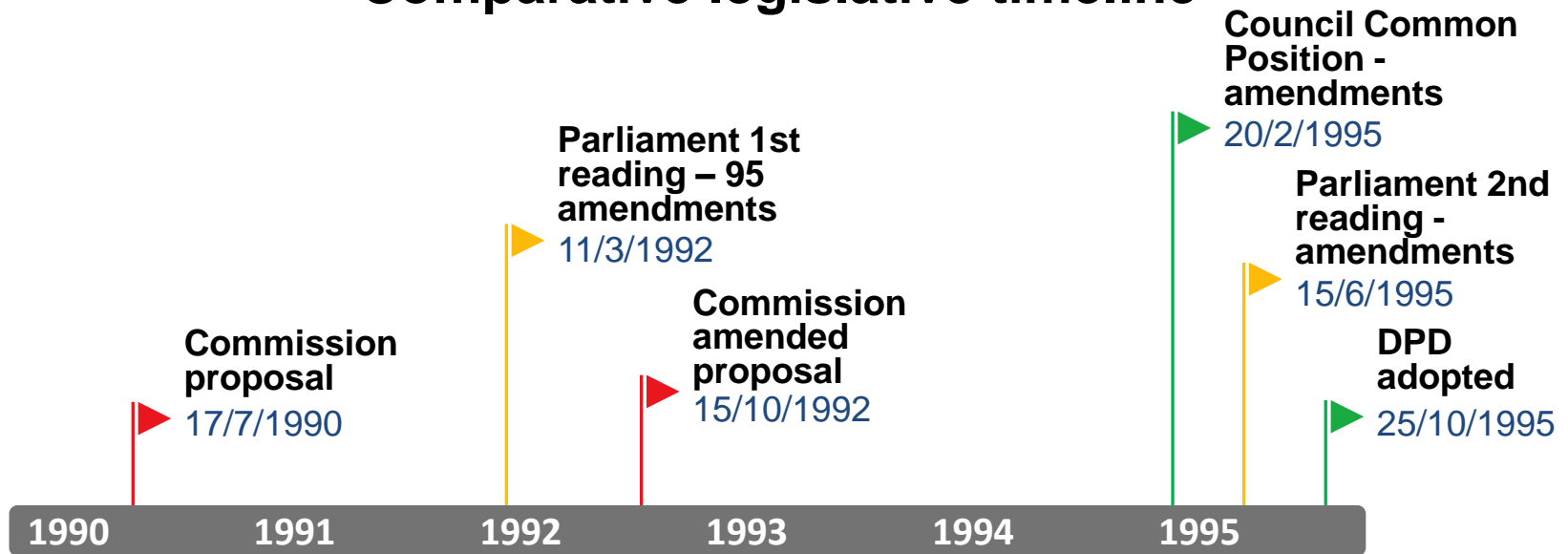
GDPR - progress

- Commission - draft General Data Protection Regulation (GDPR) – Jan 2012
 - & separate crime / law enforcement Directive
- European Parliament – different – Mar 2014
- Council - yet another version – Dec 2014
 - “nothing is agreed until everything is agreed” (PGA)
- Comparative table - leaked Apr 2015

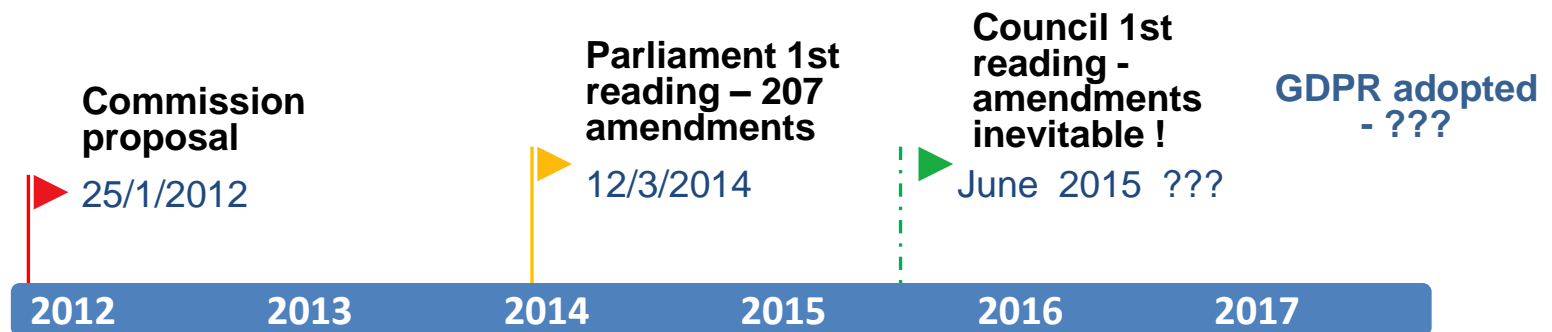
The future ?

- Council's version - June 2015 ??
- EU institutions must agree **same** text before GDPR can become law – [flowchart](#)
 - “trilogue”
 - conciliation ?
- Moving target !! + **2 years after adoption**
- **Regulation** not Directive, to harmonise – but
 - specific areas of MS discretion (e.g. [Amberhawk](#))
 - ambiguity

Comparative legislative timeline



Data Protection Directive



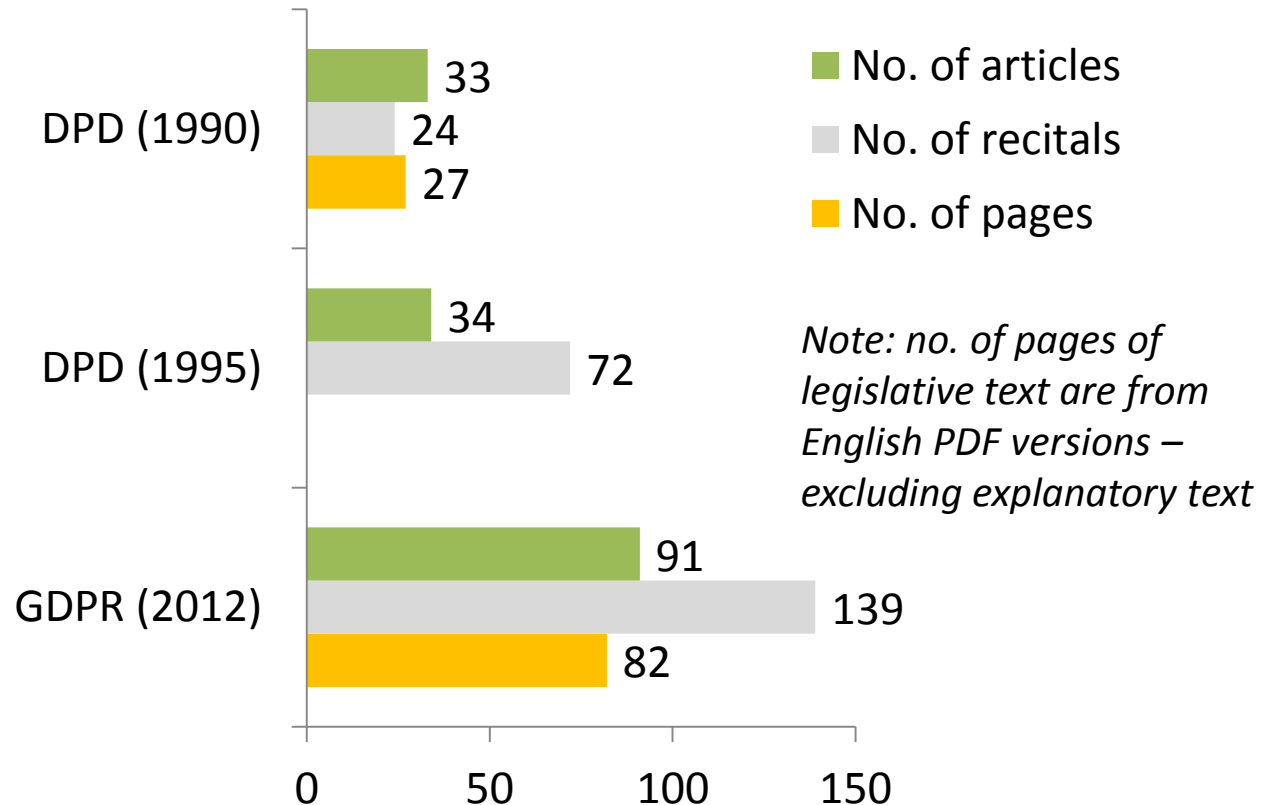
Draft General Data Protection Regulation

Key changes – moving target, but..

- Strengthen DPA powers – but funding ? Fees abolished...
 - e.g. audits, & fines (5% turnover / €100m)
- New accountability provisions (panel session 7 May)
 - DPIA, prior consultation, data protection by design / default
 - Certifications, seals, codes
- Processors – expanded requirements, direct liability
- “Security” expanded + (new) breach notification
- International transfers of personal data – more restrictive
- Subject access; RTBF; data portability; “class actions”
- Jurisdiction & one-stop shop ([summary report](#))

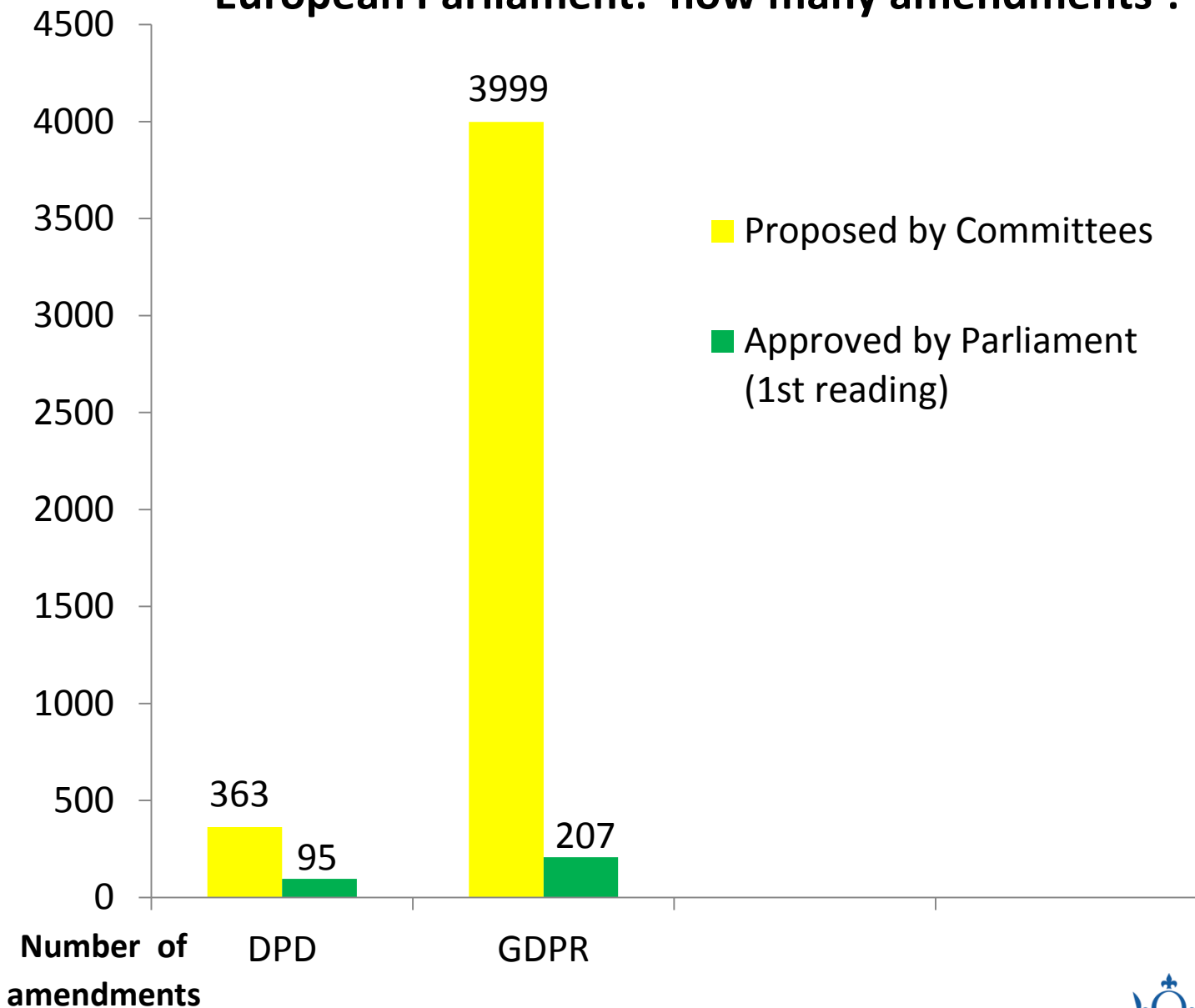
Are we there yet ?

Rough scale of data protection legislation

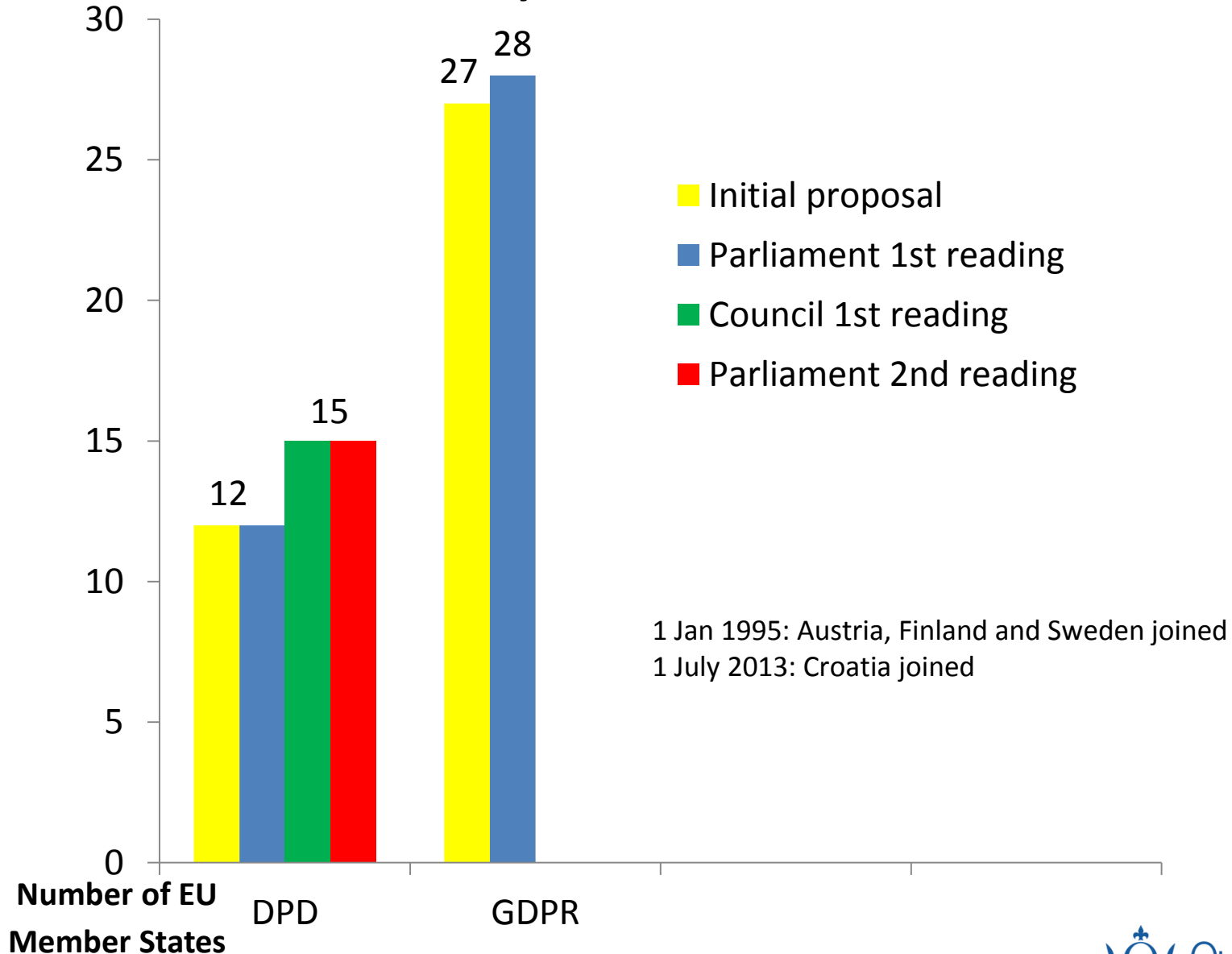


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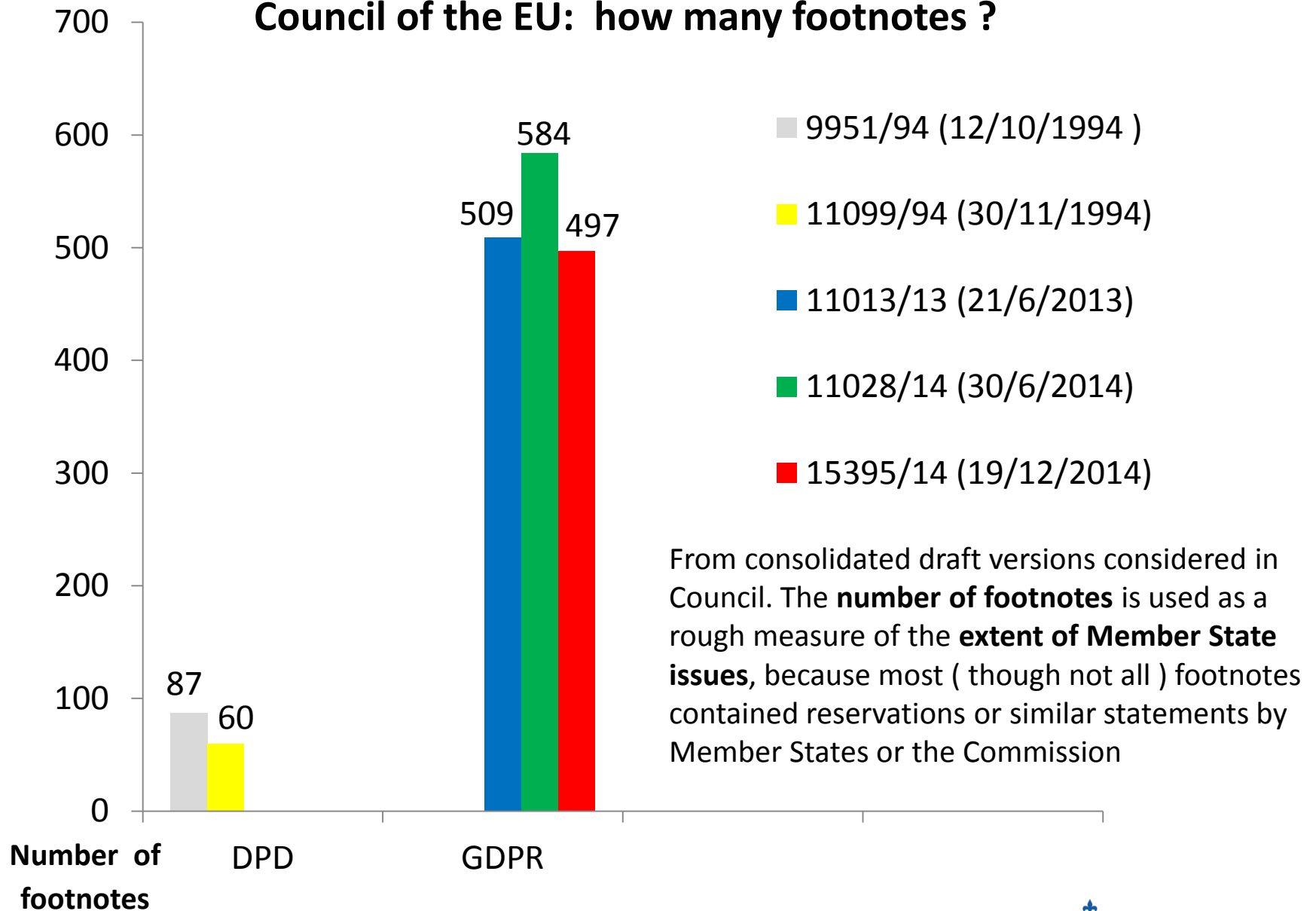
European Parliament: how many amendments ?



How many EU Member States involved ?



Council of the EU: how many footnotes ?



DPD vs GDPR – summary

<p>Vital statistics</p> <p><u>DPD (1990)</u>: 33, 24, 27</p> <p><u>DPD (1995)</u>: 34, 72, N/A</p> <p><u>GDPR</u>: 91, 139, 82</p> <p><i>Order: Arts, Rec, pgs</i></p>	<p>Parliament – Committee amendments proposed</p> <p><u>DPD</u>: 363</p> <p><u>GDPR</u>: 3999</p>	<p>Parliament – amendments approved in 1st reading</p> <p><u>DPD</u>: 95</p> <p><u>GDPR</u>: 207</p>
<p>No. of Member States</p> <p><u>DPD</u>: 12-15</p> <p><u>GDPR</u>: 27-28 +...</p>	<p>Council – no. of footnotes in consolidated text</p> <p><u>DPD</u>: 87 (2 yrs. on) 60 (2+ yrs. on)</p> <p><u>GDPR</u>: 509 (1.5 yrs. on) 584 (2.5 yrs. on) 497 (3 yrs. on)</p>	<p>Timing</p> <p><u>DPD</u>: > 5 yrs.</p> <p><u>GDPR</u>: 3 yrs +...</p>

Thanks for listening !

Paper - [GDPR impact on cloud computing](#)

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