

# 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”

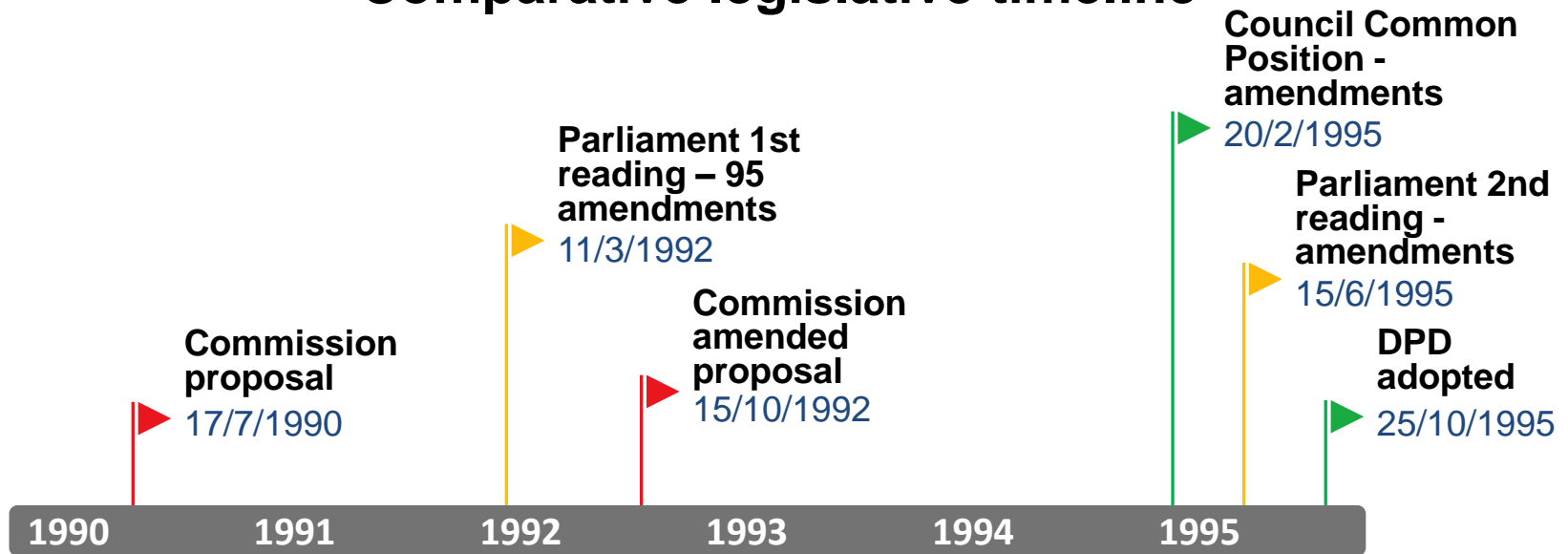
# GDPR - progress

- 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

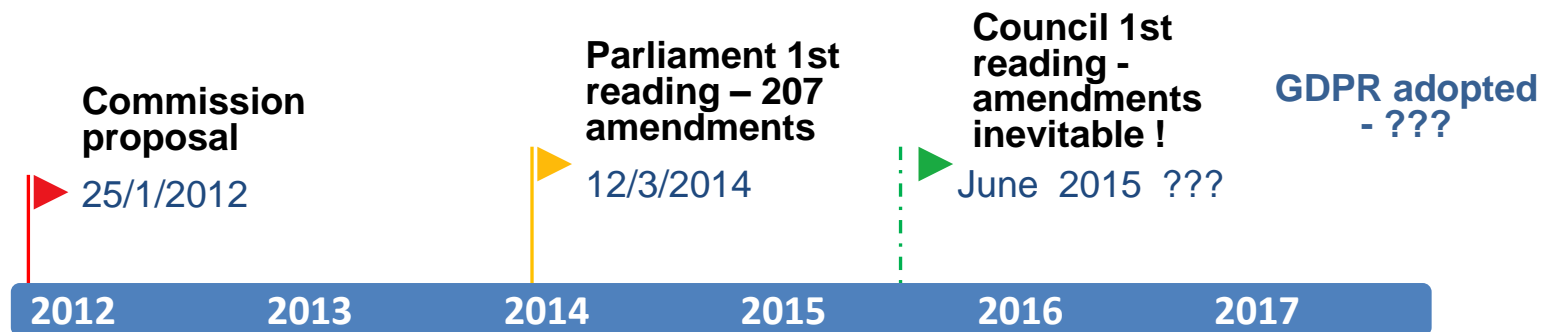
# The future ?

- 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

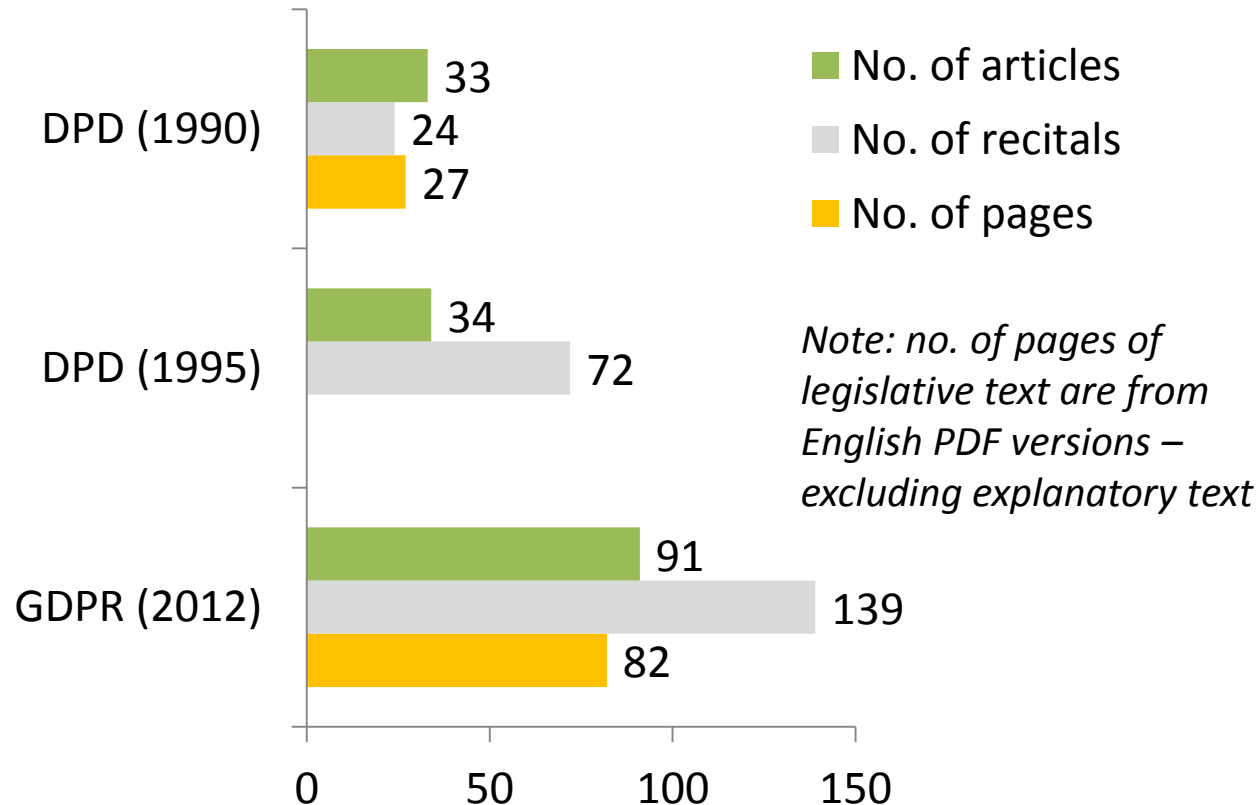
# Key changes – moving target, but..

- 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 ?

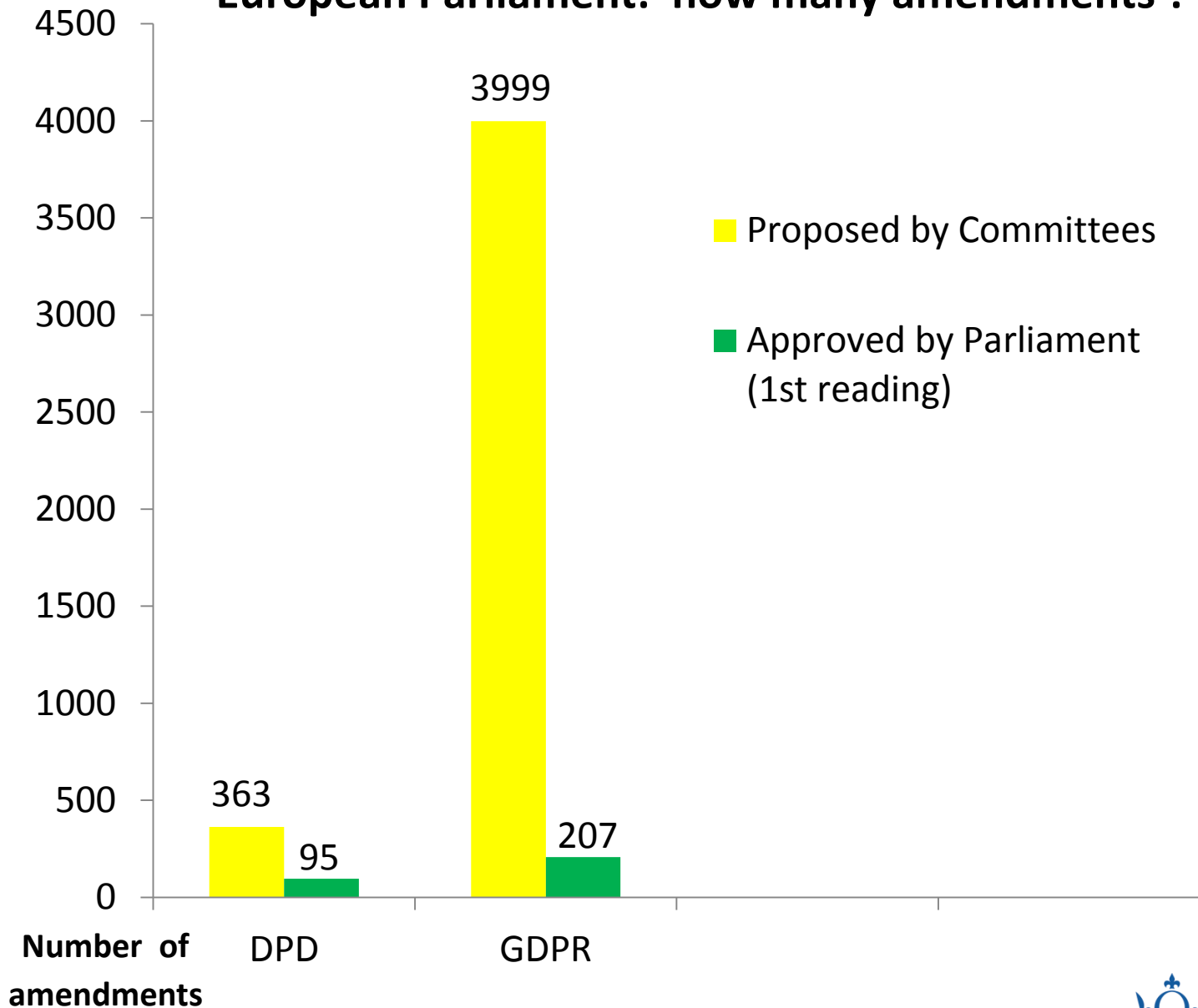


# Rough scale of data protection legislation

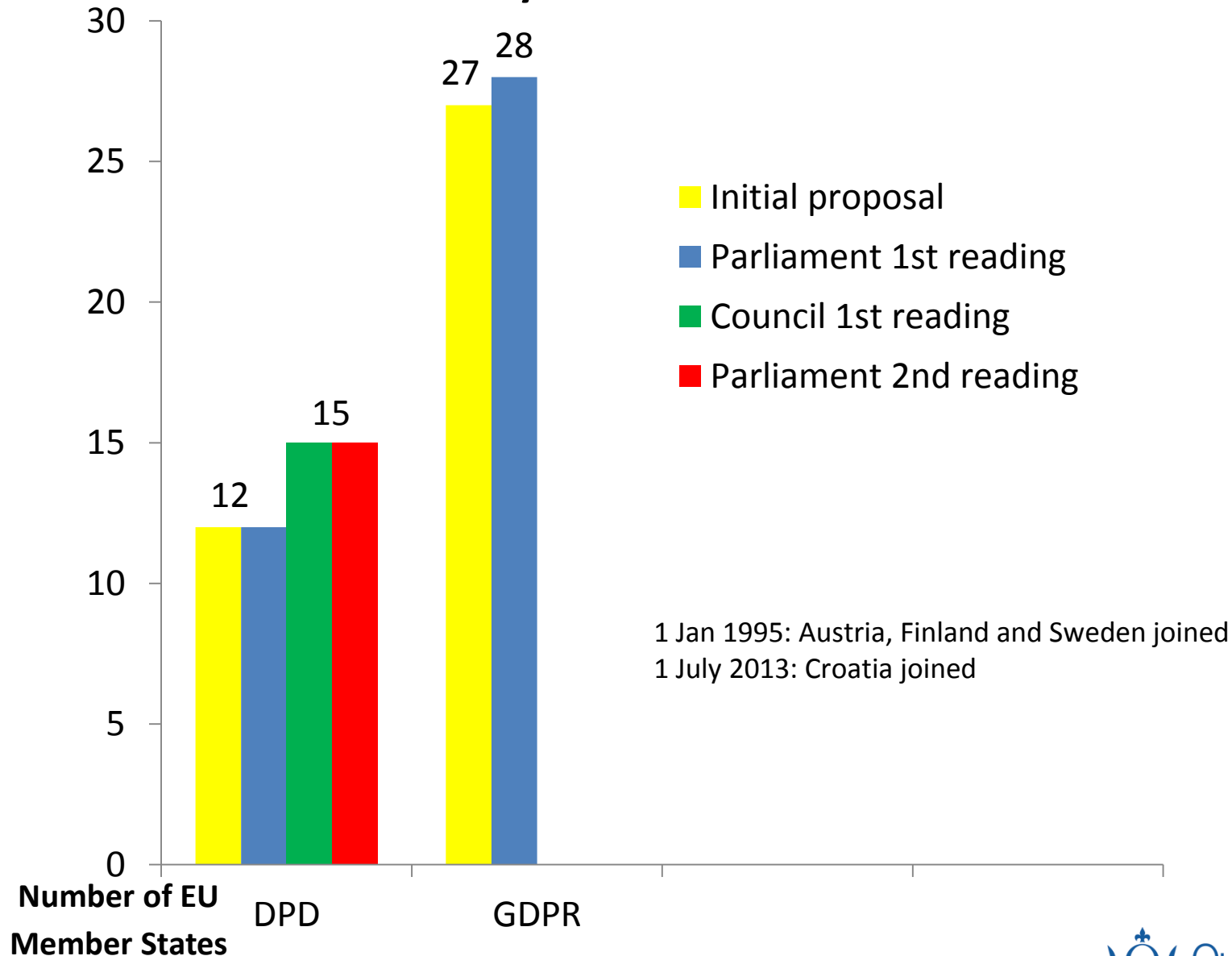


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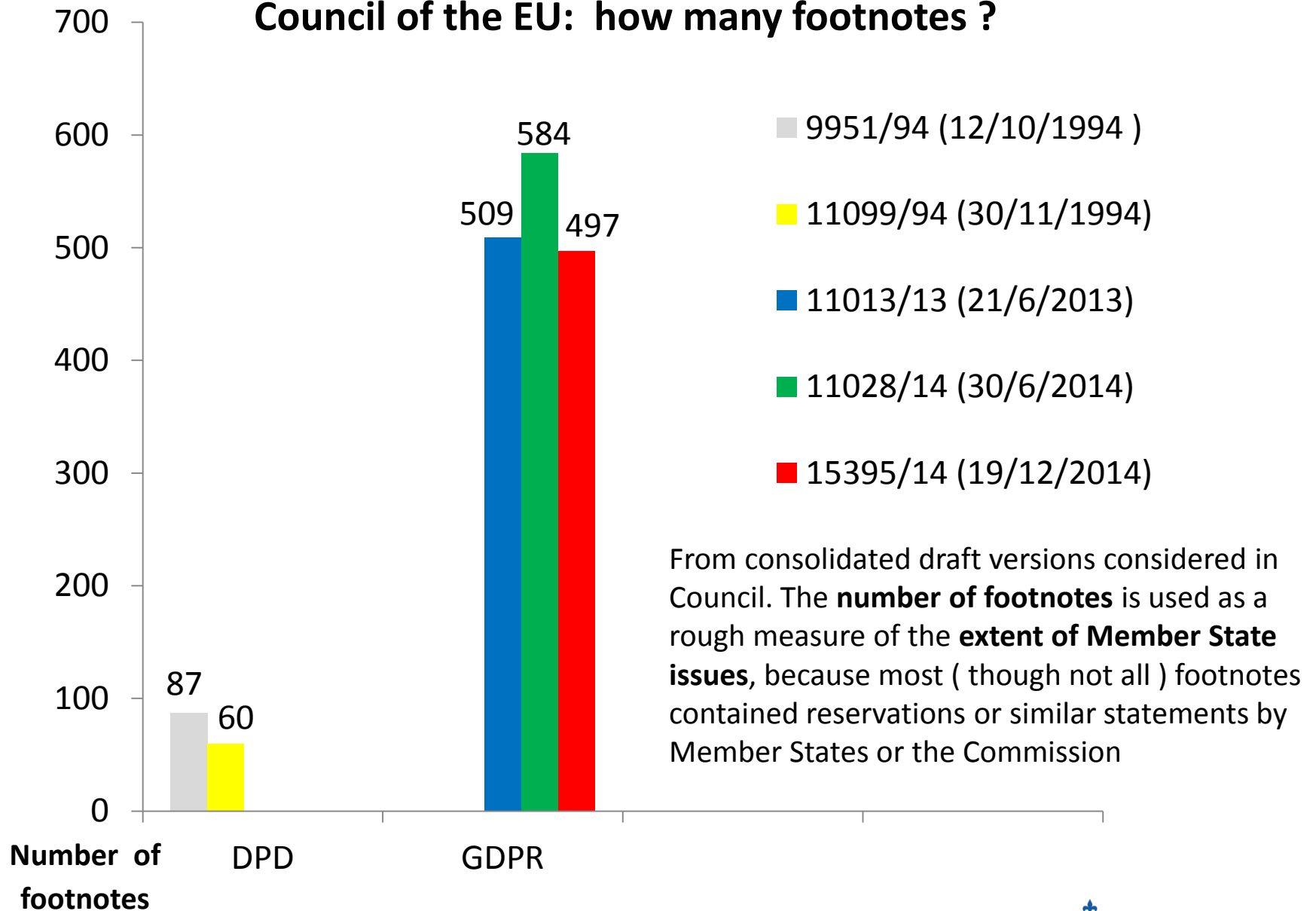
# European Parliament: how many amendments ?



# How many EU Member States involved ?



# Council of the EU: how many footnotes ?



## DPD vs GDPR – summary

<p><b>Vital statistics</b></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><b>Parliament – Committee amendments proposed</b></p> <p><u>DPD:</u> 363</p> <p><u>GDPR:</u> 3999</p>	<p><b>Parliament – amendments approved in 1<sup>st</sup> reading</b></p> <p><u>DPD:</u> 95</p> <p><u>GDPR:</u> 207</p>
<p><b>No. of Member States</b></p> <p><u>DPD:</u> 12-15</p> <p><u>GDPR:</u> 27-28 +...</p>	<p><b>Council – no. of footnotes in consolidated text</b></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><b>Timing</b></p> <p><u>DPD:</u> &gt; 5 yrs.</p> <p><u>GDPR:</u> 3 yrs +...</p>

# Thanks for listening !

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

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