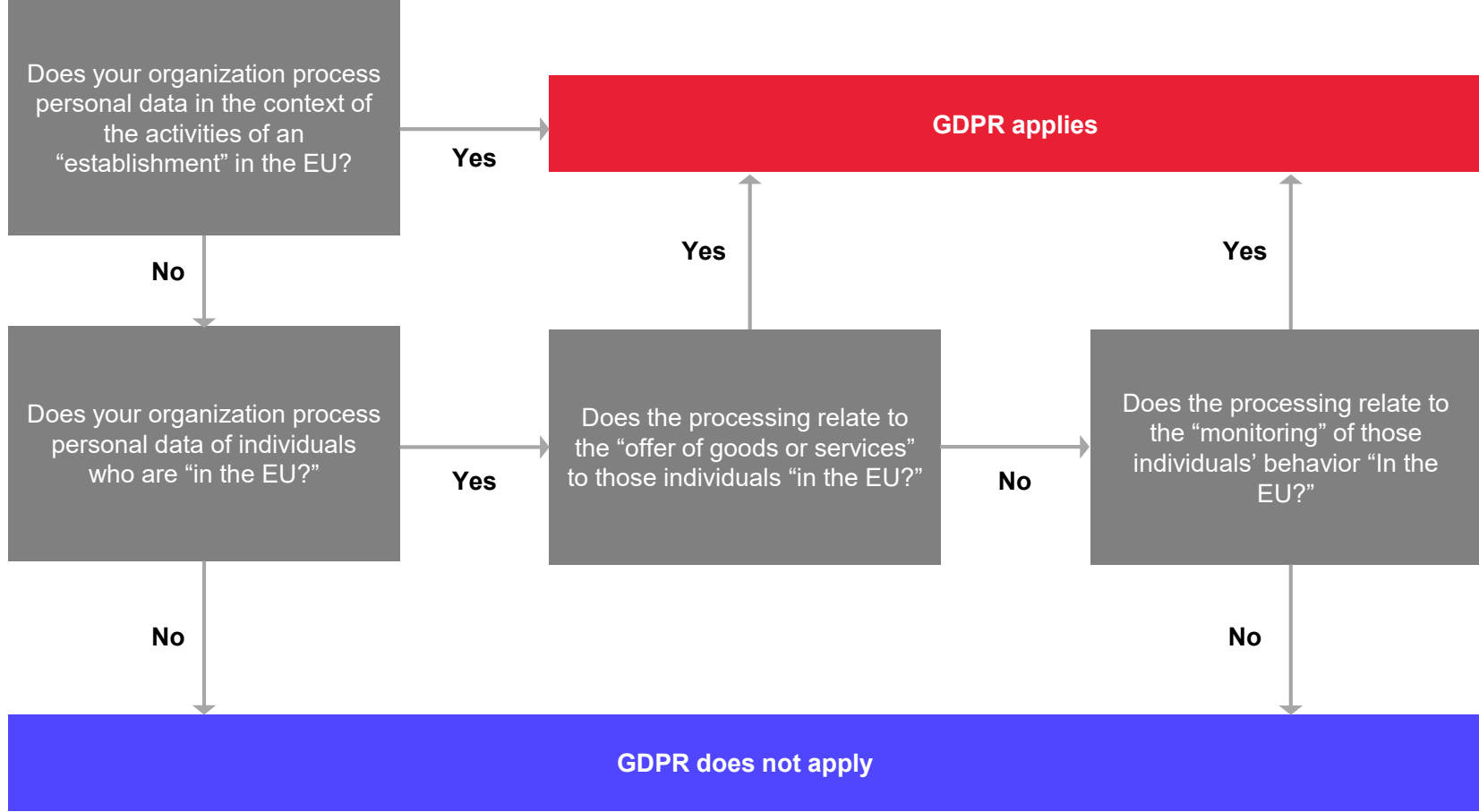


Does GDPR apply? (Article 3)



Key concepts and definitions

- **Establishment** – May include an EU office, presence of EU employees (potentially even just one), corporate entity or branch registered in the EU, other “stable arrangements” in the EU. GDPR applies to all personal data processed by EU establishments (even of non-EU residents).
- **In the EU** – EU citizens outside the EU at the time of processing are not covered. Non-EU citizens present in the EU are covered.
- **Offer of goods or services** – Not enough that EU users happened to find and use your site or buy your goods/services (whether free or paid). Requires some evidence of your intent to entice EU individuals to use the goods/services. Regulators have identified nine factors indicative of an offer of goods or services:
 1. The EU or at least one Member State is designated by name with reference to the good or service offered;
 2. The data controller or processor pays a search engine operator for an internet referencing service in order to facilitate access to its site by consumers in the EU; or the controller or processor has launched marketing and advertisement campaigns directed at an EU country audience;
 3. The international nature of the activity at issue, such as certain tourist activities;
 4. The mention of dedicated addresses of phone numbers to be reached from an EU country;
 5. The use of a top-level domain name other than that of the third country in which the controller or processor is established, for example, “.de,” or the use of neutral top-level domain names such as “.eu”;
 6. The description of travel instructions from one or more other EU Member States to the place where the service is provided;
 7. The mention of an international clientele composed of customers domiciled in various EU Member States, in particular by presentation of accounts written by such customers;
 8. The use of a language or a currency other than that generally used in the trader’s country, especially a language or currency of one or more EU Member States;
 9. The data controller offers the delivery of goods in the EU Member States.
- **Monitoring** – A potentially broad range of activities. Includes online behavioral advertising and other profiling for marketing/personalization, telecom-style services and conventional surveillance (e.g., video monitoring). Has a “specific purpose in mind for the collection and subsequent reuse of the relevant data about an individual’s behavior within the EU.”

Last updated December 2019. This is a high-level snapshot and not a comprehensive description of the GDPR’s scope.