

## Data Protection in the European Union

# Executive Summary

Flash Eurobarometer 147 - Taylor Nelson Sofres. Coordination – EOS Gallup Europe

This survey was requested by Directorate General “Internal Market” and coordinated by Directorate General Press and Communication

*This document does not represent the point of view of the European Commission. The interpretations and opinions contained in it are solely those of the authors.*



## EXECUTIVE SUMMARY

The Directorate General "Internal Market" of the European Commission wished to conduct a survey among data controllers throughout the European Union in order to gather information on data protection awareness in companies and the general perception of data controllers in the different EU Member States.

From the 15<sup>th</sup> of September to the 3<sup>rd</sup> of October, the EOS Gallup Europe network conducted a survey among 3013 data protection officers or persons responsible for data protection issues within companies employing 20 persons and more throughout the 15 Member States of the European Union. The surveyed population thus reflects the reality of the European Union universe of companies.

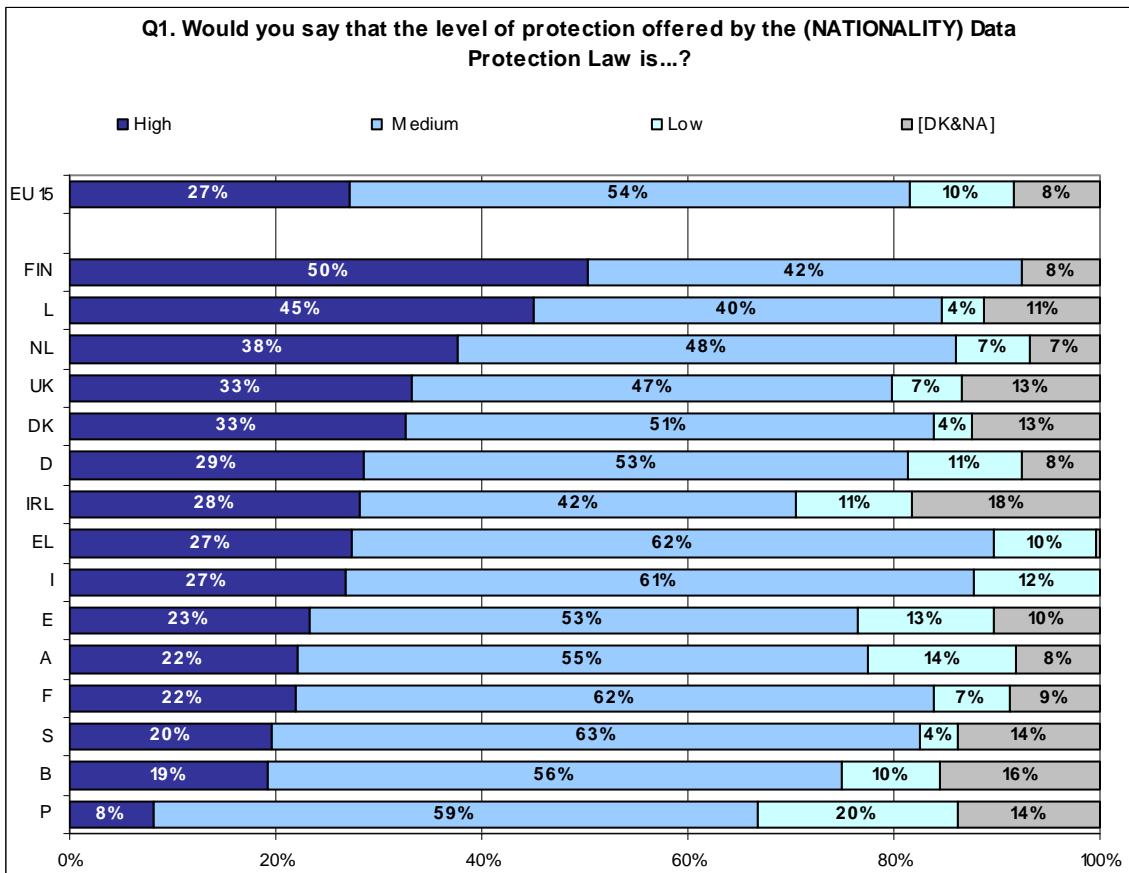
This executive summary presents the main results observed.

## MAIN RESULTS

### 1. Perception of the current legislation on data protection

- *Data controller's assessment of the data protection law*

In companies throughout the European Union, a majority of persons responsible for data protection issues (54%) consider the level of protection of their respective national data protection laws as being 'medium' (**graph Q.1**).



However, important disparities between respondents in the different Member States can be observed, namely among the proportion of those who believe the data protection law in their country is 'high'.

Countries that can be distinguished are Finland (where a majority of respondents indicate a high level of protection for the Finnish data protection law) and Luxembourg.

Respondents in Portugal and Belgium indicate the lowest rates as to this high level of protection.

- *The current legislation and the amount of personal information being exchanged*

A majority of respondents (54%) throughout the EU believe that the existing legislation on data protection is unsuited to cope with the increasing amount of personal information being exchanged\*.

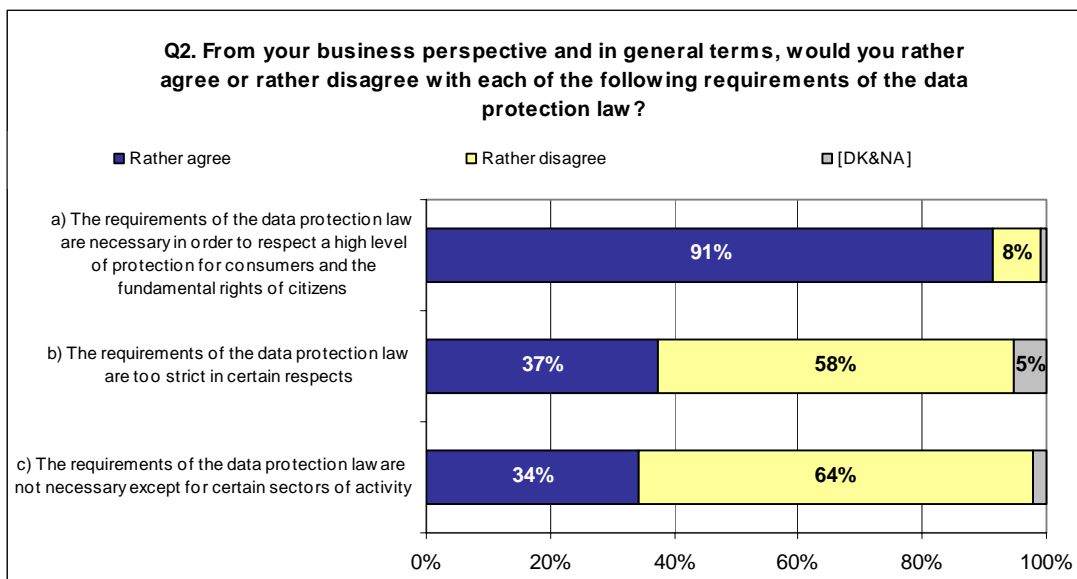
However, discrepancies among respondents in the different countries remain. Respondents in Finland, the Netherlands and Greece are more numerous to believe that the existing legislation is rather well suited or very well suited to cope with this increase. Lowest rates are found in Portugal.

- *Attitudes towards the requirements of the data protection law*

A vast majority of persons responsible for data protection issues (91%) agrees that the requirements of the data protection law are necessary in order to respect a high level of protection for consumers and the fundamental rights of citizens, thus confirming that companies strongly believe in the necessity of protection of personal databases (**graph Q.2**).

Added to this, a majority of respondents (58%) does not estimate that the requirements of the data protection law are too strict, which indicates that companies are not that burdened by the strict application of the data protection law.

Finally, a clear majority of respondents (64%) believes that the requirements of the data protection law are indeed necessary for all sectors of activity without exception.

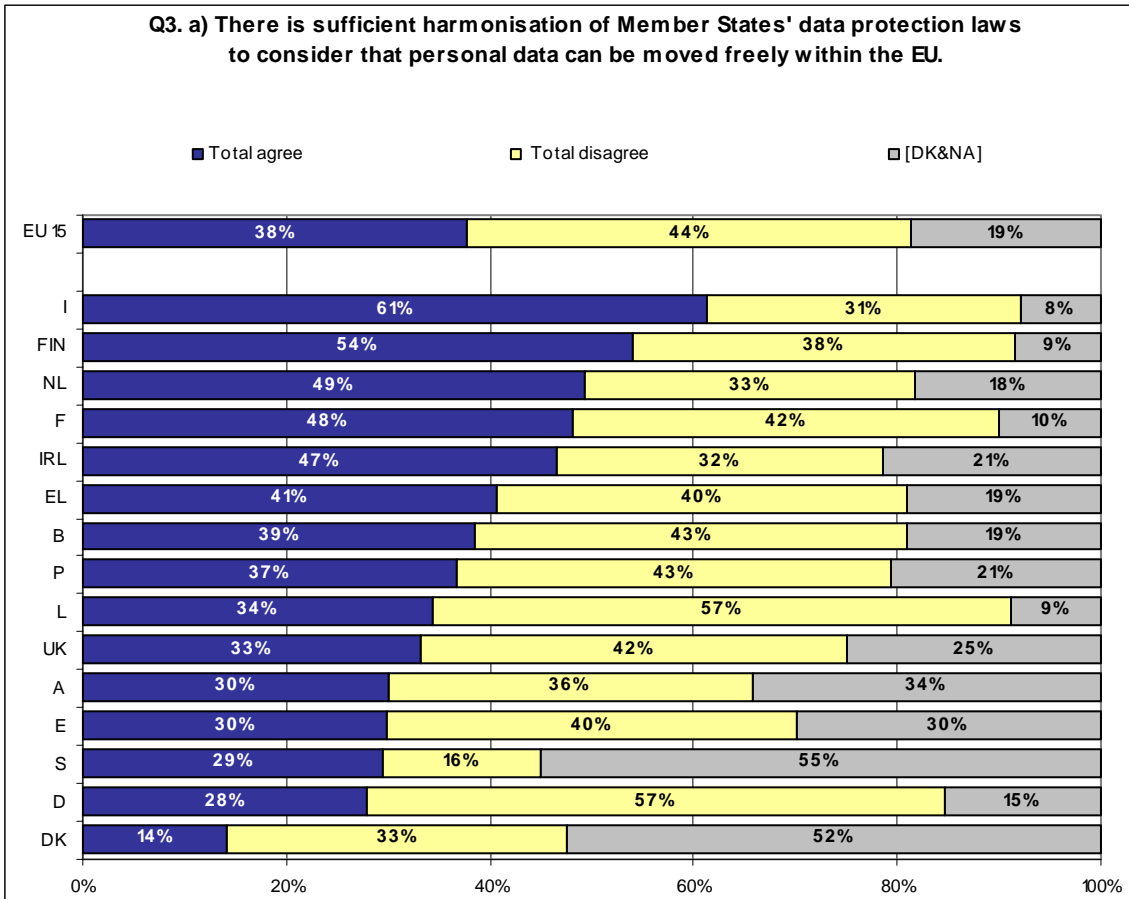


\* see annexe Q.4, p.14

- *Views on the implementation of the legislation*

Results show that a large proportion of persons responsible for data protection issues among companies in the EU (44%) do not believe that there is sufficient harmonisation of Member States data protection laws to consider that personal data can be moved freely within the EU (**graph Q.3a**)

There are once again important discrepancies in the results by country. Only in Italy and Finland does a majority of respondents believe that there is sufficient harmonisation.



The application and the interpretation of the respective data protection laws are perceived differently among Members States. Finland has by far the highest rate of agreement that the Finnish data protection law is interpreted and applied more rigorously than in other Member States. On the contrary, Portugal has the lowest rate of agreement\*

The results concerning the perception of the current legislation on data protection show that there are differences in the implementation and the application of the 1995 Data Protection Directive among the different countries of the European Union. The manner in which the different national laws are appreciated and respected by companies varies significantly from one country to the other. More harmonisation of the data protection legislation between the different EU Member States may therefore be necessary.

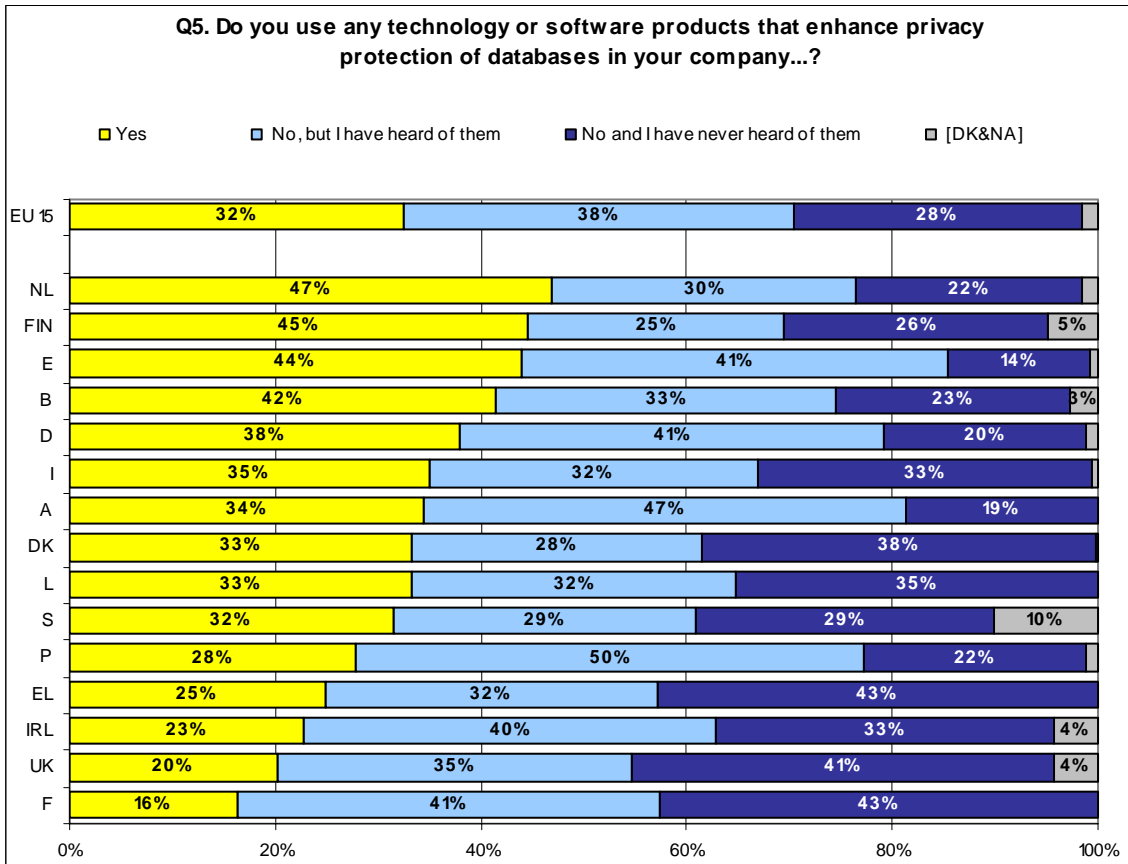
\* see annexe Q.3b, p.15

## 2. In-house practices and company experiences with data protection

- *The usage of privacy enhancing technologies*

Less than a third of respondents (32%) throughout the EU indicate using privacy enhancing technologies in their company. The Netherlands has the highest rate among the EU countries indicating such usage (**graph Q.5**).

An important proportion of persons responsible for data protection issues admit never even having heard of such technologies (28%). This is mainly the case in France, the United Kingdom and Greece.



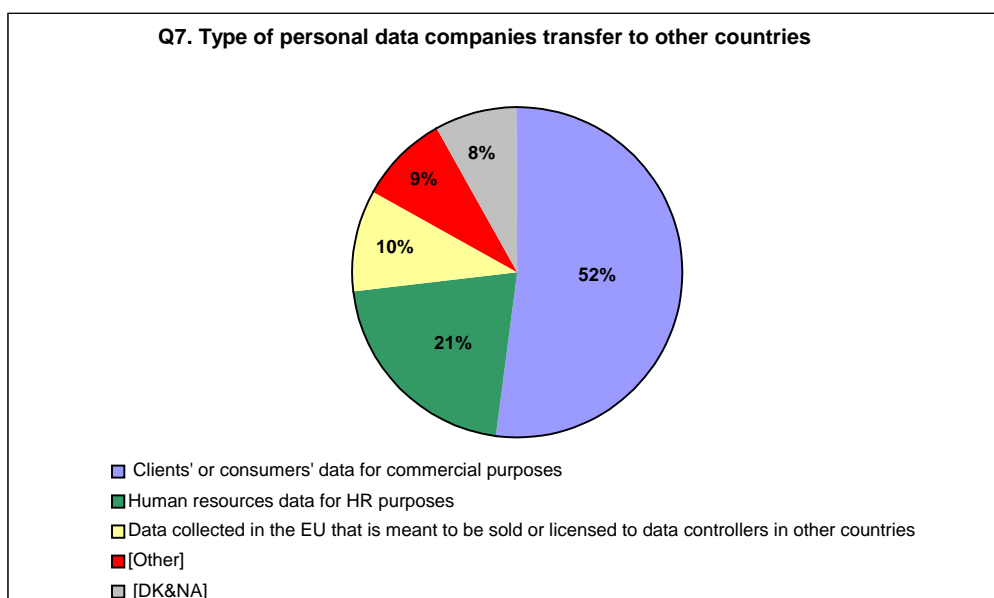
- *Transfer of personal data outside the EU/EEA*

Only one in ten respondents indicates that his/her company transfers personal data outside of the European Union or the European Economic Area. This result leads us to believe that personal data transfer remains in most cases a national or an EU concern for companies.

There are no significant disparities in the results by country\*.

Companies in the industry sector tend to be more inclined to transfer personal data to countries outside of the EU/EEA than those in other sectors of activity. This can also be said for the largest sized companies, which are more active on an international level than smaller companies.

Among companies that do transfer personal data to other countries, we can note that this data mostly concerns clients' or consumers' data for commercial purposes (**graph below – source Q.7**)



---

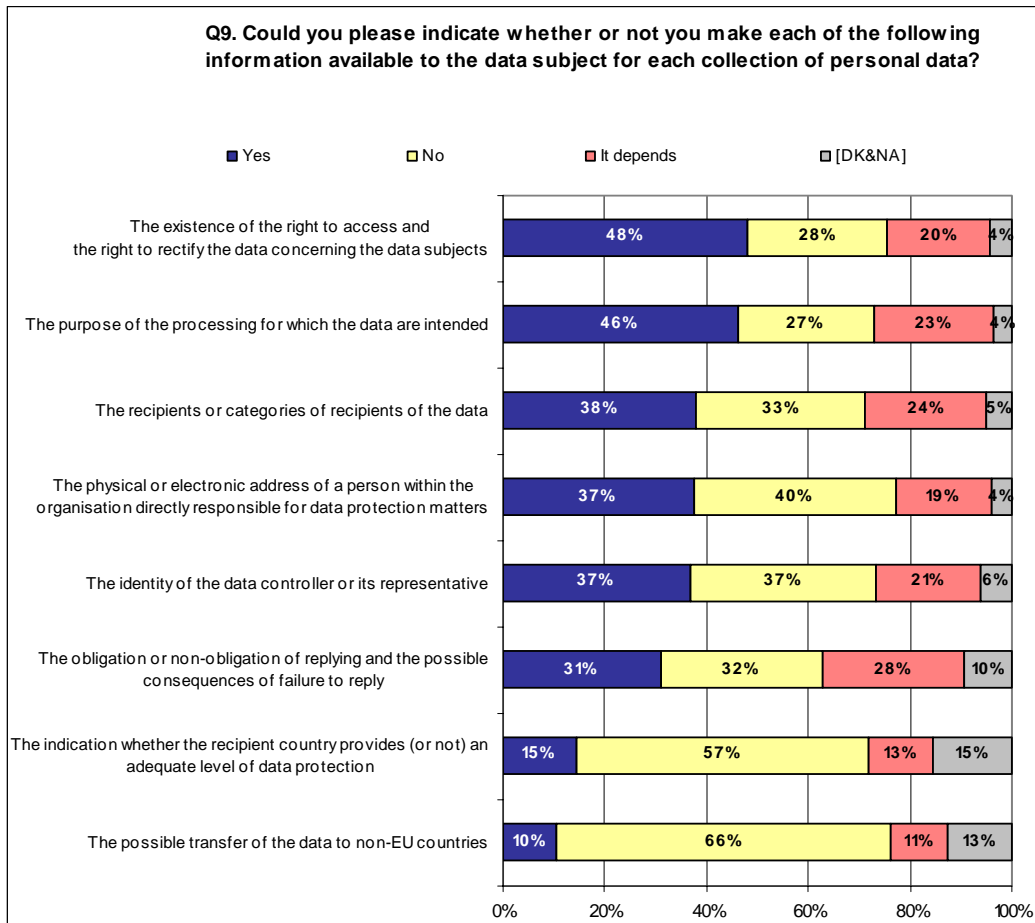
\* see annexe Q.6, p.16

- *Types of information made available to data subjects*

When observing the different types of information that companies make available to data subjects, we can note that much is not provided to them. For none of the types of information suggested in the survey does a clear majority of respondents throughout the EU indicate making its availability to data subjects (**graph Q.9**).

'The existence of the right to access and the right to rectify the data concerning the data subjects' is the information that is made most available when observing the EU averages. The information types of which data subjects are the least informed of are the ones indicating 'the possible transfer of the data to non-EU countries' and 'whether the recipient country provides (or not) an adequate level of data protection'.

While respondents in Italy seem to have the highest response rates for the majority of these different information types made available to data subjects, Belgium, France and Germany are the countries where respondents indicate that such information types are least made available to data subjects.



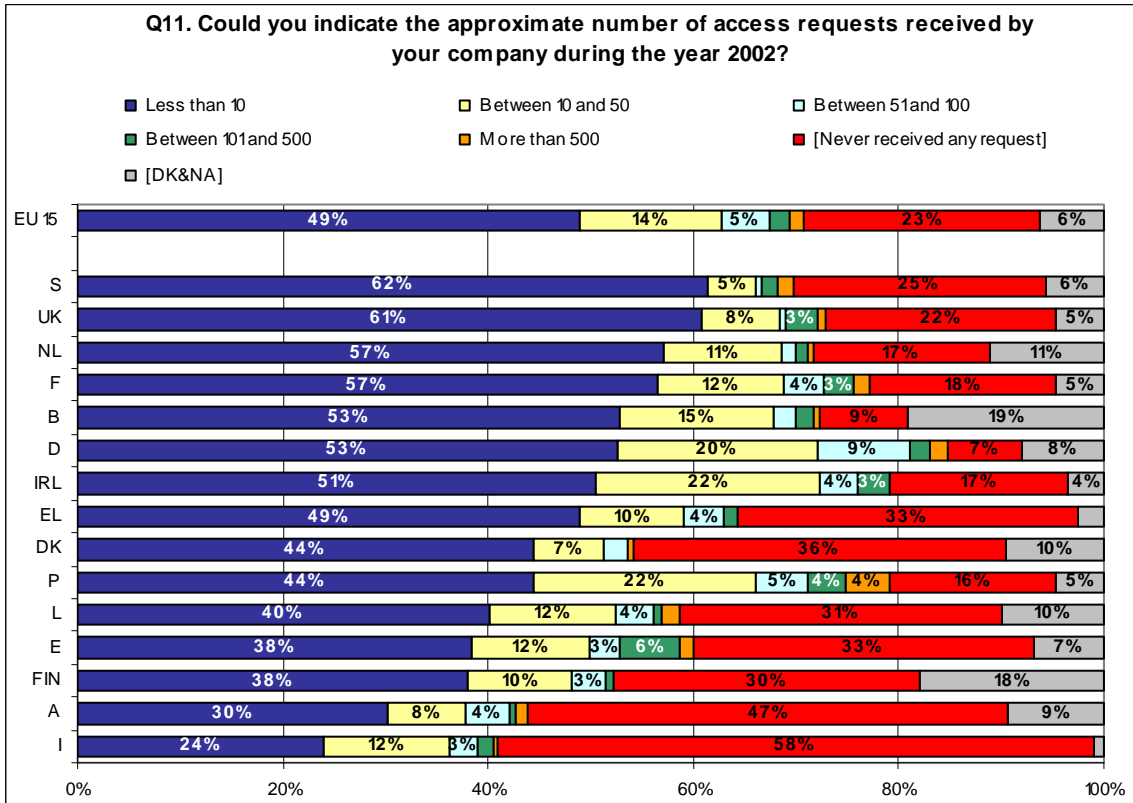
Article 10 of the European Data Protection Directive states that in cases of collection of personal data, the data controller or its representative is obliged to provide the data subject with information concerning 'the purpose of the processing for which the data are intended' and 'the identity of the data controller or its representative'. The results shown above prove that the level of compliance of companies with these provisions of the Directive remain low throughout Europe.



Results by country however, show very important disparities, which prove that compliance levels with these provisions of the Directive vary considerably among countries as to the information that is made available by data controllers when collecting personal data\*.

- *Companies' experiences of access requests and complaints*

A relative majority of respondents throughout the European Union (49%) indicate that their company received fewer than ten access requests during the year 2002 (**Graph Q.11**)



As for the complaints companies have received from people whose data is being currently processed, a huge majority of respondents in all of the 15 Member States (96%) indicates that their company has not received any such complaints\*.

\* see annexe Q9a and c page 17

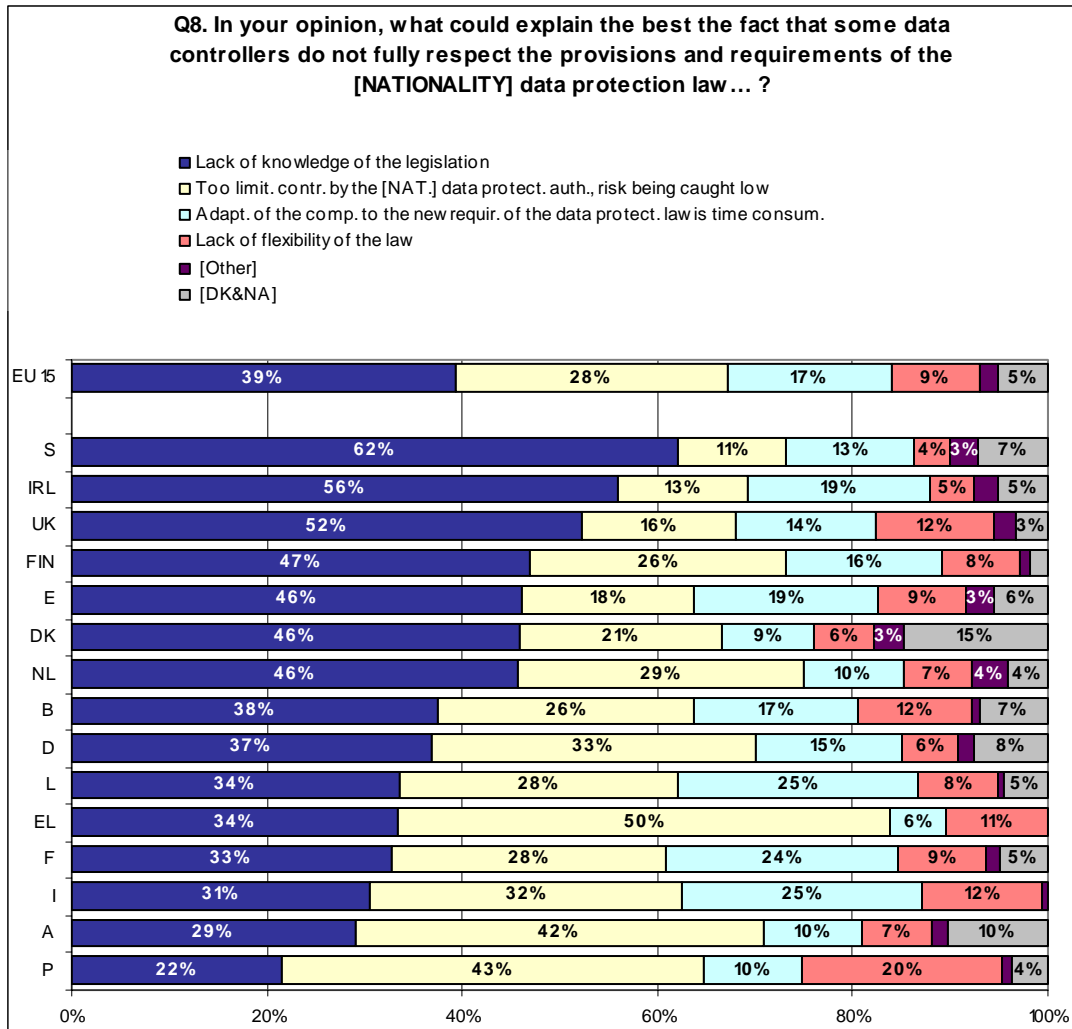
\* see annexe Q.12, p.18

### 3. How data controllers perceive the lack of respect of the legislation

- *Reasons why the legislation is not applied correctly*

Results of the EU average show that for the relative majority of persons responsible for data protection issues (39%), the lack of knowledge of the data protection law best explains why certain data controllers do not fully respect this legislation.

However, there are disparities between the different Member States as to which explanation is most cited by respondents. Respondents in Sweden most strongly believe that the disrespect of the legislation is due to this lack of knowledge of the data protection law. In Greece, a majority believes it is due to a too limited control by the national data protection authority and that the risk of being caught is low (graph Q.8).



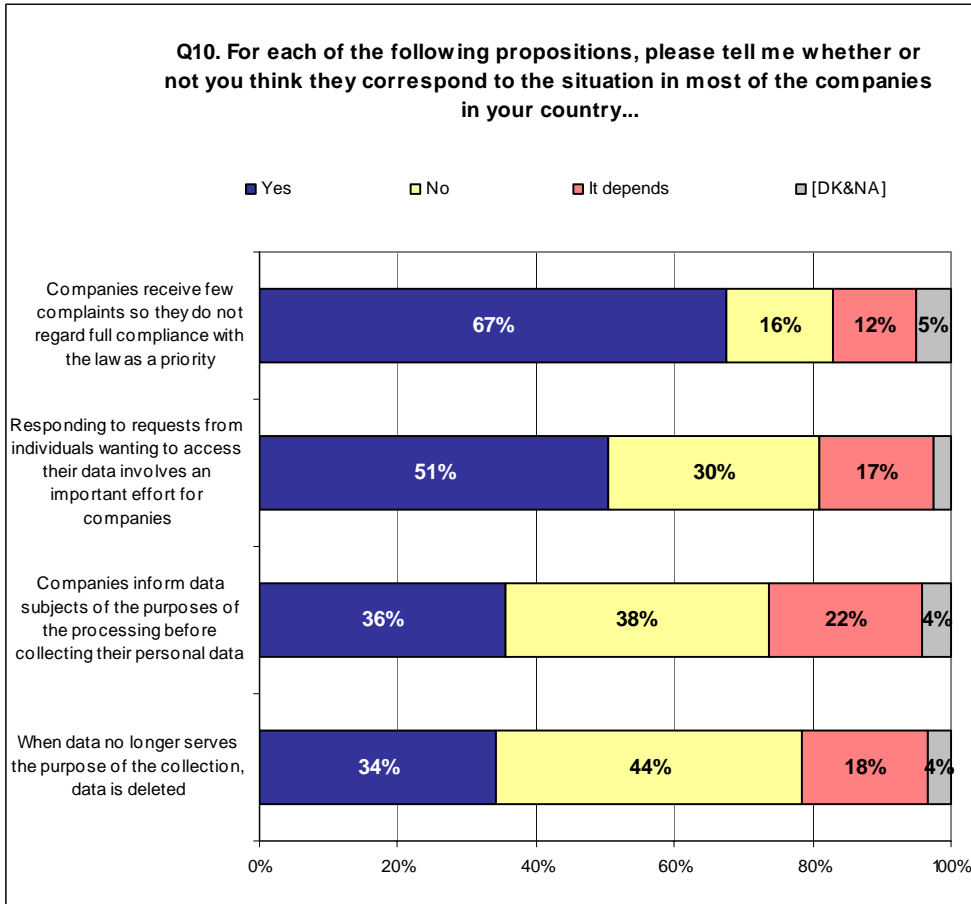
- *Perception of practices in other companies*

For most respondents (67%), companies in their respective countries do not respect the data protection law fully because they receive few complaints (**graph Q.10**).

A majority of them (50%) also agrees that responding to access requests represents an important effort for companies in their country.

Furthermore, results show that companies do not inform data subjects of the purposes of the processing before collecting their personal data. Only 36% of respondents indicate that companies in their country do inform data subjects on these purposes.

Finally, almost half of the respondents (44%) indicate that companies in their country do not delete data when it no longer serves the purpose of the collection.



#### **4. The future of the legal framework on data protection**

- *Improvements and simplifications of the implementation of the legal framework*

Further clarifications on the European Directive and national laws' are the most favoured action by respondents in order to improve and simplify the implementation of the legal framework on data protection. This action is most favoured in Italy and Germany\*.

However, there is no clear expressed preference for the other four actions suggested in the survey. Respondents in Portugal and the United Kingdom would prefer aiming at a better balance between the right to data protection and the freedom of expression and information.

Finnish respondents would like to see more uniformity between the national laws as regards the information to be provided to data subjects.

A demand for data protection legislation specific to each sector of activity has a high rate of preference in Spain.

The need of more harmonised rules on security measures is expressed by a significant rate of respondents in Austria and in Luxembourg.

These results show us that the separate Member States seem to have different priorities as to the actions that should be taken in order to improve and simplify the data protection legal framework.

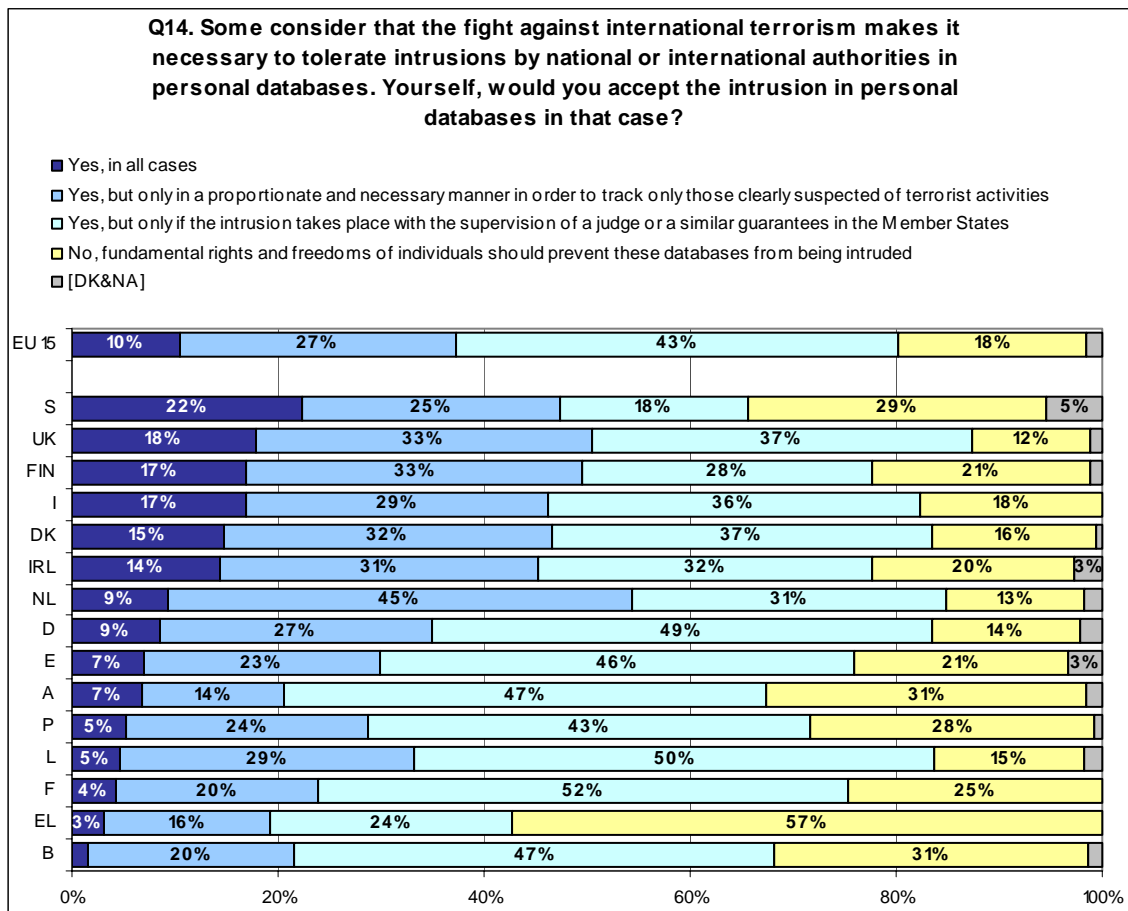
---

\* see annexe Q.13, p.19

▪ *Personal databases and the fight against terrorism*

A vast majority (80%) of persons responsible for data protection issues throughout the European Union indicate that they would accept the intrusion in personal databases in order to help national or international authorities in the fight against terrorism (**graph Q.14**)

However, a relative majority (43%) among this population specifies that such intrusions would only be accepted if they would take place under the supervision of a judge or similar guarantees in the Member States.



## ▪ **Conclusion**

This survey has allowed us to analyse data controllers' perceptions and opinions on the current data protection laws in the European Union, as well as their opinions and expectations on future implementation of a harmonised legal framework for data protection.

The main finding is that among the Member States of the European Union, there are differences in the level of awareness and the level of compliance with some of the provisions of the European Directive on data protection. The way the different national laws on data protection are appreciated by data controllers vary significantly between countries.

Indeed, the level of protection of the national legislation on data protection is perceived differently among the Member States, and the opinions on the legislation's capacity to cope with the increasing amount of personal information being exchanged varies significantly between countries.

The lack of knowledge of the legislation and the low level of enforcement by data protection authorities are the main reasons given by data controllers for explaining the disrespect of the data protection law. Furthermore, respondents indicate that the best way to improve and simplify the implementation of the legal framework on data protection would be to provide further clarification on the practical application of some of the key definitions and concepts of the Directive and the national laws implementing it.

The information provided by data controllers to data subjects remains very poor and shows yet again a lack of compliance with the provisions of the data protection Directive concerning the information to be made available when collecting personal data.

Furthermore, the use of Privacy Enhancing technologies by data controllers is very rare: less than one third of respondents declare using such technologies in their company.

Results by size of company have shown us that perceptions and applications of the data protection law are different among large and small companies. The largest companies seem more exposed to the issues of data protection than smaller companies, which is most probably due to their wider exposure to international business. This explains the higher level of awareness of the data protection legislation among these companies.

Results of this data protection survey thus underline that there are true differences in the general perception among data controller of the implementation of the Directive among the different Member States, and divergences of opinion whether there is sufficient harmonisation of data protection laws to consider that personal data can be moved freely within the EU.

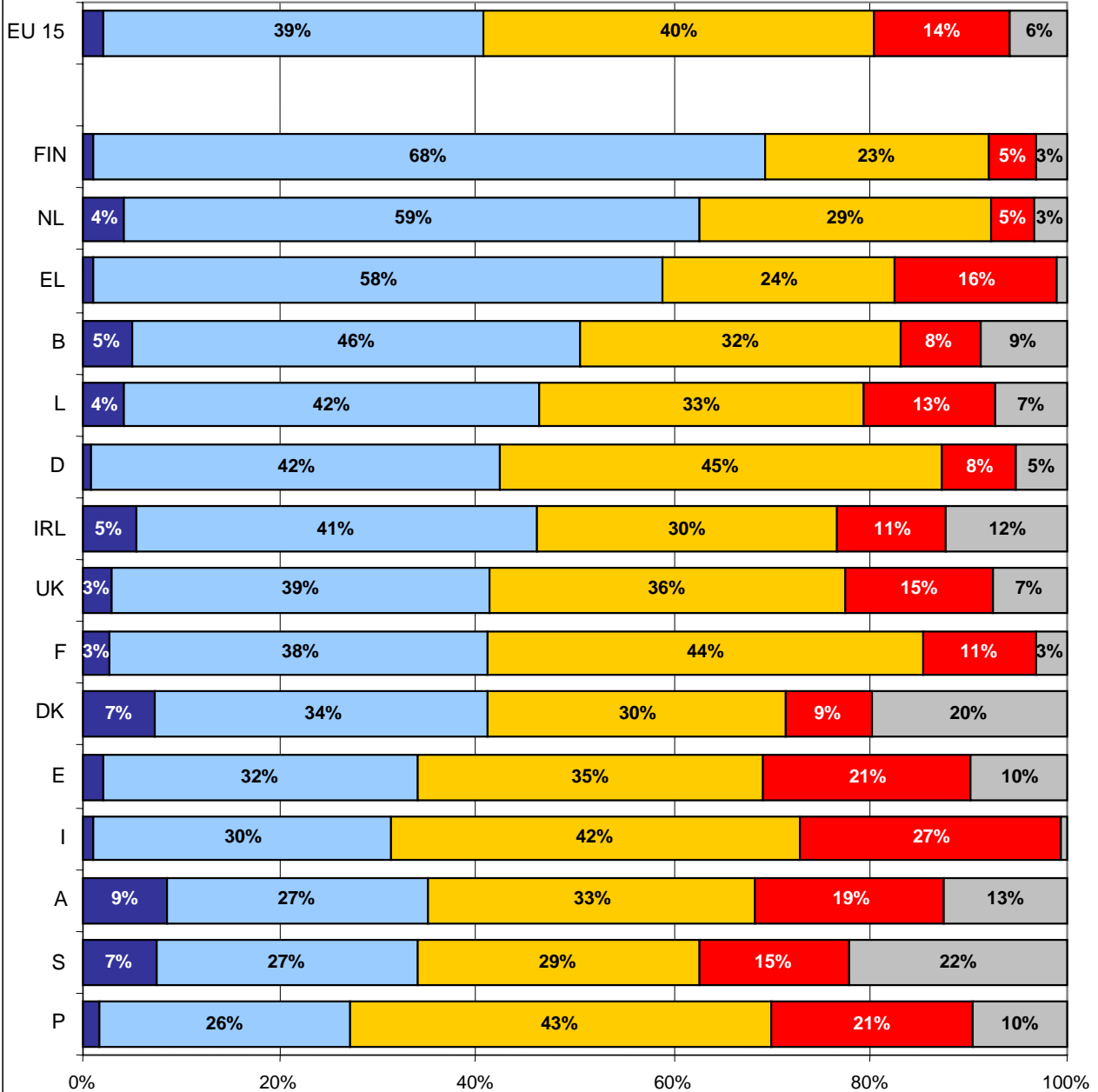
Nevertheless, results have shown that an overwhelming majority of data controllers in companies established in the EU regard data protection requirements positively.

The 1995 Directive and its aim to harmonise data protection legislation still needs to be reinforced in order to lessen these divergences, which remain between the Member States' laws. This will no doubt benefit the functioning of the Internal Market and the economic activity within the EU.

# **ANNEXES**

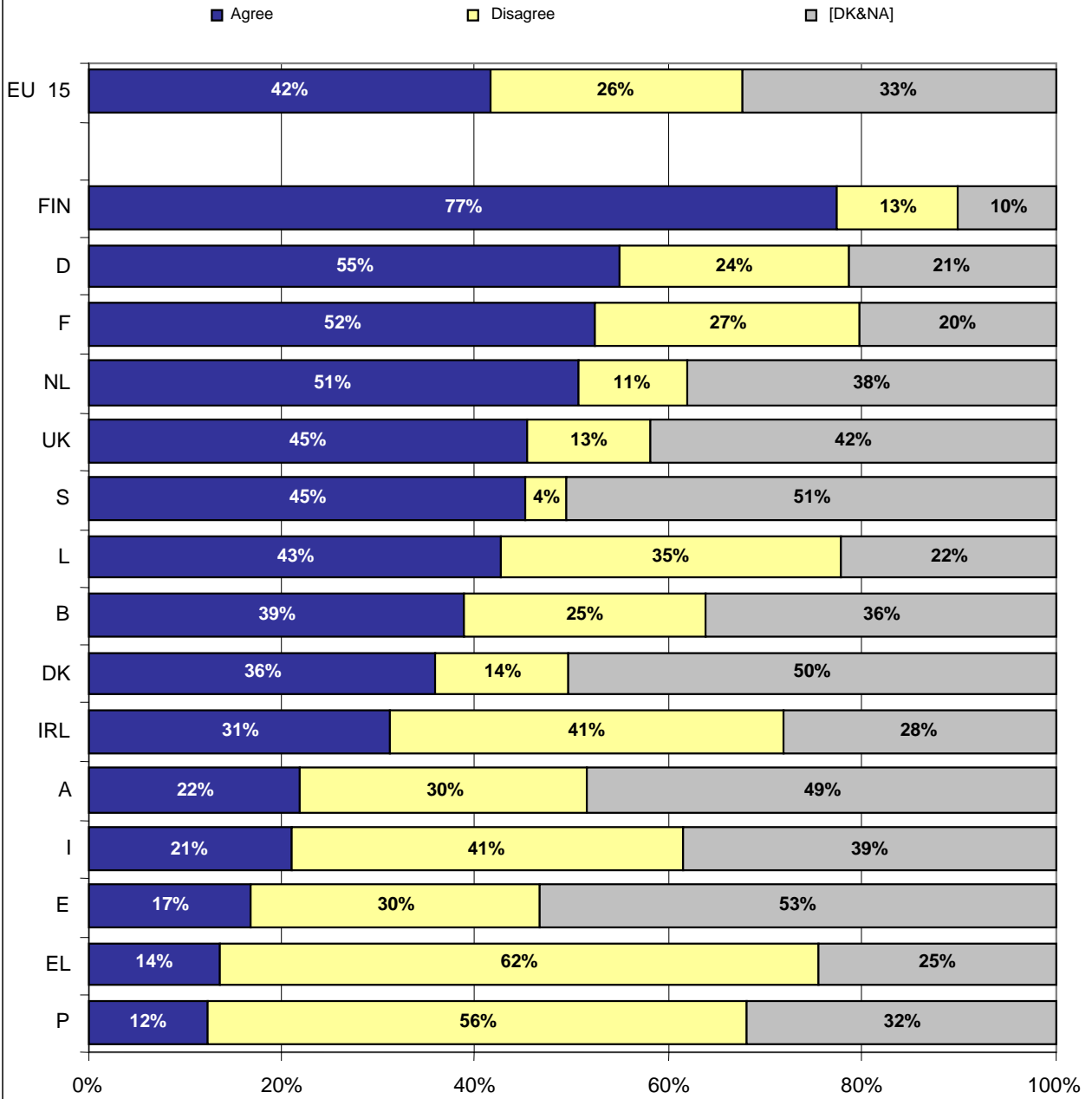
**Q4. The existing legislation on data protection is ... to cope with the increasing amount of personal information being exchanged**

■ Very well suited     
 ■ Rather well suited     
 ■ Rather unsuited  
■ Not suited at all     
 ■ [ DK&NA]

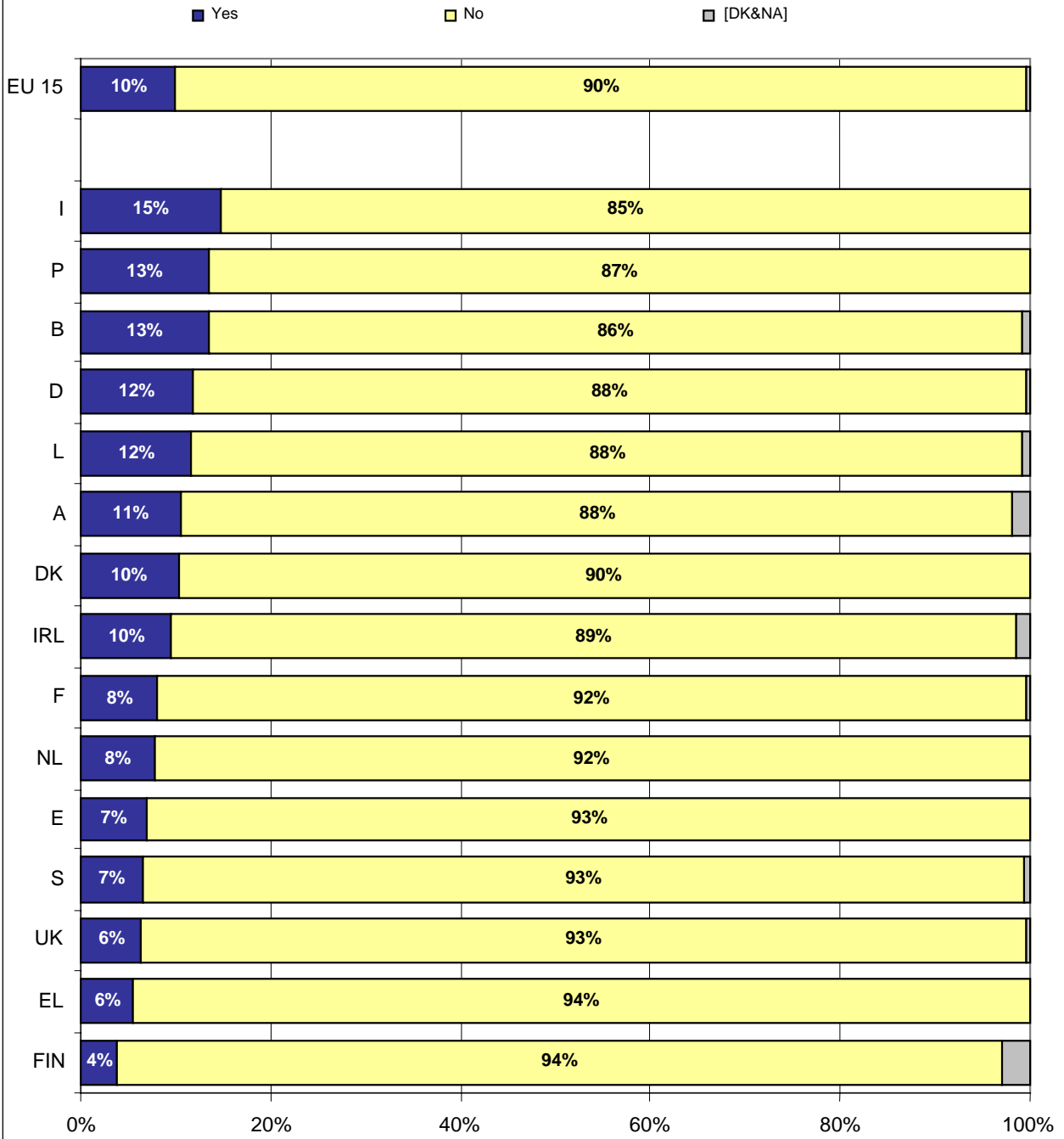


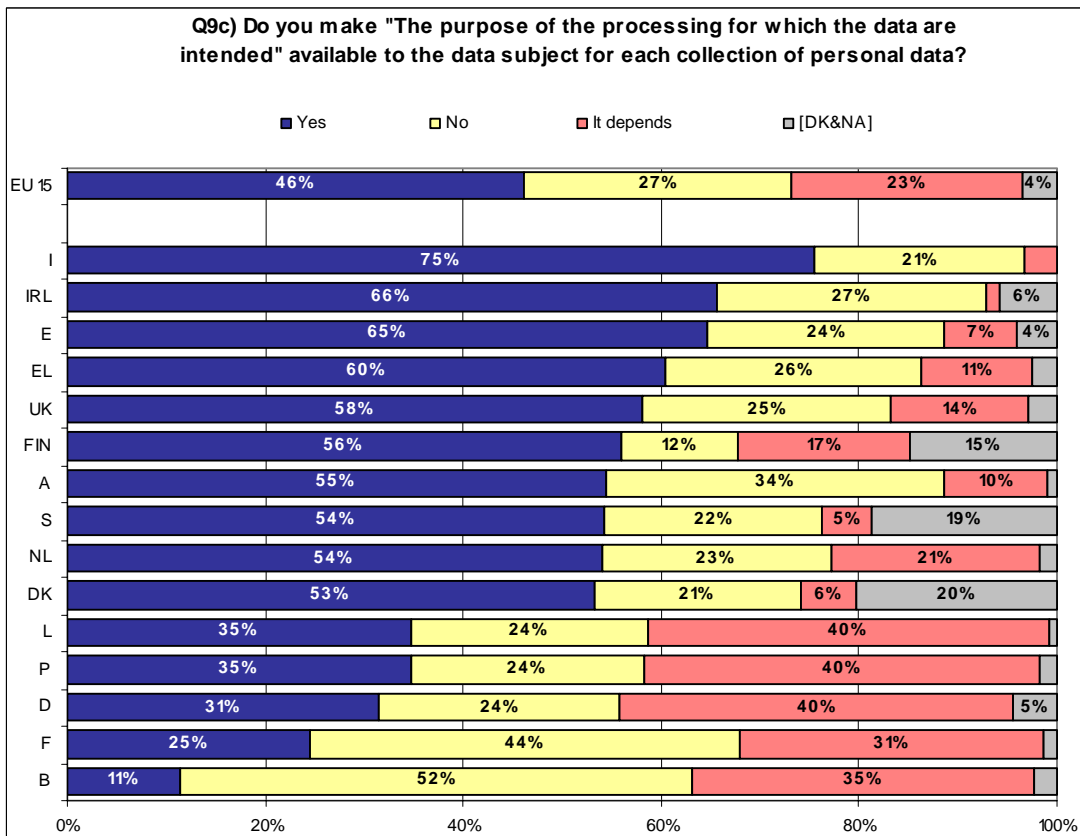
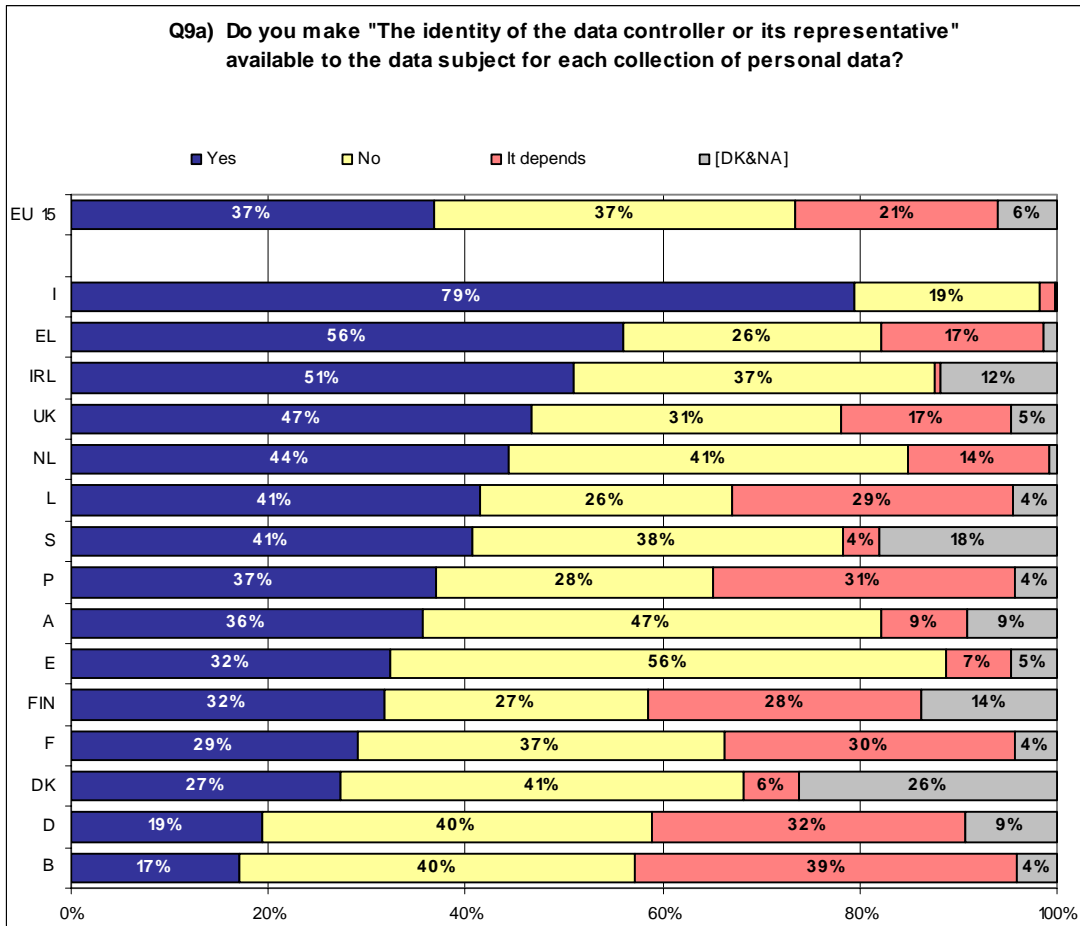


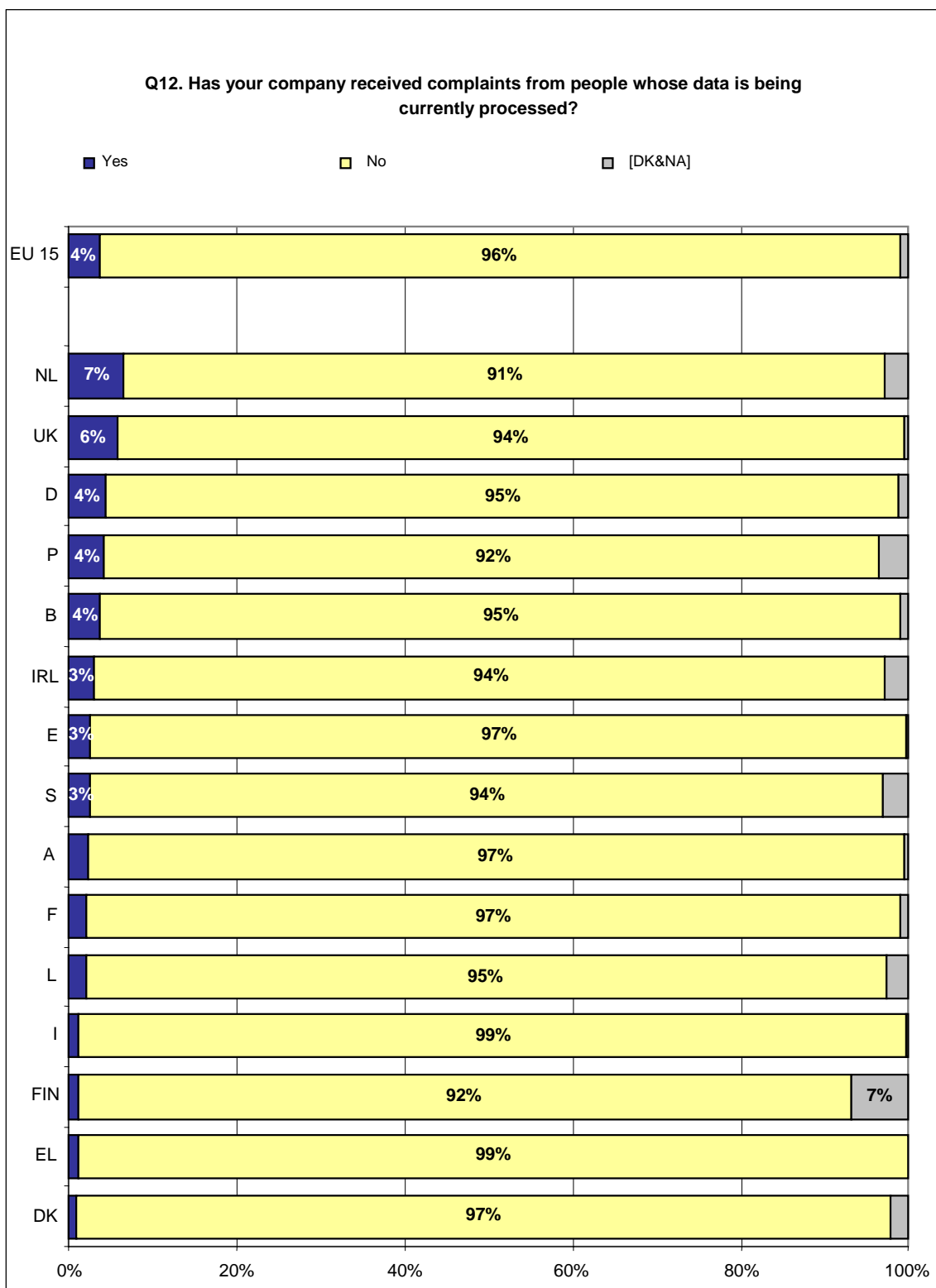
**Q3 b) The data protection law in [OUR COUNTRY] is interpreted and applied more rigorously than in other Member States**



**Q6. Does your company transfer personal data to countries outside the European Union/  
European Economic Area?**







**Q13. Please indicate which of the following actions you would most favour to improve and simplify the implementation of the legal framework on data protection? Firstly? & Secondly?**

- Further clarification on the practical application of some of the key definitions and concepts of the European Directive and national laws
- Aim at a better balance between the right to data protection and the freedom of expression and information
- More uniformity between the national laws as regards the information to be provided to data subjects
- Data protection legislation specific to each sector of activity
- More harmonised rules on security measures
- [Other: specify]
- [DK&NA]

