

Europe

EU Member States Urge the Commission to Remove Barriers to the Flow of Data

Half of all EU Member States have penned a letter to the European Commission (EU) and the Netherlands (which currently holds the rotating presidency) calling for the removal of barriers to the free flow of data within and outside of the EU. The countries responsible for the letter, including the UK, Finland, Ireland, Denmark and Sweden, cited as their rationale the need to ensure that the EU continues to benefit from new data-driven technologies. The letter, delivered on 23 May, urged the Commission to ensure that the development of these technologies is not hampered by regulation and encouraged it to avoid a "one size fits all" approach.

[The Letter](#)

European Data Protection Supervisor Publishes Its Annual Report

On 24 May, the European Data Protection Supervisor (EDPS) published its 2015 annual report detailing its activities in 2015 and setting out its key priorities for 2016. In 2015, the EDPS was dedicated to safeguarding new data protection frameworks, specifically making recommendations for the adoption of the General Data Protection Regulation (GDPR). They also launched numerous other new initiatives, including amongst other things, programs related to big data and data ethics. During the course of 2016, the EDPS reported that its primary focus will be concentrated on the implementation of the GDPR and the continued provision of advice to EU institutions on the streamlined application of EU data privacy rules.

[2015 Annual Report](#)

European Parliament Tells the European Commission to Reopen Negotiations on Privacy Shield

The European Parliament has passed a non-binding resolution calling for the European Commission to re-open negotiations with the relevant US bodies in relation to the EU-US Privacy Shield. The resolution also calls for the full implementation of the recommended amendments to the Commission's draft Privacy Shield adequacy decision (Draft Decision) put forward by the Article 29 Working Party (Art 29 WP). The Opinion, previously published by the Art 29 WP, recommended changes to the Draft Decision in order to ensure that the data of European citizens remains properly protected and that concerns surrounding the access of European data by law enforcement and government agencies were adequately addressed.

[The Resolution](#)

UK

The ICO Issues a List of Priorities to Prepare for GDPR

The Information Commissioner's Office (ICO) has issued a set of priorities to assist businesses in preparing for the impending EU General Data Protection Regulation (GDPR). The ICO has split its guidance into three phases. Phase 1, Familiarisation and Key Building Blocks, focuses on helping businesses understand the differences between the EU Data Protection Directive and the GDPR. Phase 2, Guidance Structure and Mapping, Process Review and Associated Tools, and Phase 3, Bulk Guidance Refresh/Production and Review, will be published closer to the implementation deadline.

[Press release](#)

Germany

Court Rules That Dashcam Recordings Can Be Admissible for Prosecution of Severe Traffic Offences

The Higher Regional Court of Stuttgart has ruled that, in principle, recordings from dashboard cameras, or dashcams, can be admissible in a legal proceedings. The court held that these types of recordings should be valid for the prosecution of severe traffic offences. Legal questions arising from the use of dashcams have been controversially debated previously; however, this judgment is the first high-court ruling on this topic. An appeal has not been permitted.

[The Ruling](#) (in German)

US

Irish Data Protection Commissioner to Bring EU-US Data Flows Before European Court of Justice Again

Ireland's Data Protection Commissioner (DPC) is seeking declaratory relief in the Irish High Court and a referral to the European Court of Justice (CJEU) of a complaint brought against Facebook which challenges the legitimacy of the EU-approved "Standard Contractual Clauses". In October 2015, the CJEU invalidated the EU Commission's decision approving the Safe Harbor agreement with the United States, which at the time was being used by thousands of US companies as the legal basis for transferring EU personal data from the EU to the US. Two major concerns with the Safe Harbor arrangements were identified by the CJEU: the broad powers of US law enforcement and security agencies to access EU personal data once exported to the US, and the lack of any procedures allowing EU citizens a right of redress in such circumstances.

Following the CJEU's decision on Safe Harbor, many US companies that had been Safe Harbor-certified put in place the EU Standard Contractual Clauses, which contain specific undertakings consistent with the EU data protection rules to which both the exporters and importers of EU personal data agree to adhere. Those challenging the use of the Standard Contractual Clauses, using Facebook as a test case, have argued that the same concerns that led the CJEU to invalidate the EU Commission's decision approving the Safe Harbor arrangements apply to the Standard Contractual Clauses as well.

It is unclear whether the challenge to the Standard Contractual Clauses relates solely to transfers of EU personal data to the US or to any country outside the EU that is not the subject of an "adequacy finding". With regard to US transfers, it remains to be seen whether relevant legislative developments in the US that have taken place since the record of the case challenging the Safe Harbor arrangements was closed will affect the outcome of this latest challenge to the Standard Contractual Clauses. It is also an open question whether this latest challenge will impact the EU Commission's "adequacy decision" on the so-called Privacy Shield arrangements between the US and the EU, which are pending approval and are intended to resolve the CJEU's concerns regarding Safe Harbor. Concerns about the adequacy of the proposed Privacy Shield arrangements have been raised by national data protection authorities, the European Data Protection Supervisor and members of the European Parliament.

In the meantime, the use of the Standard Model Clauses remains a viable, if potentially short-lived, option for companies that are involved in the transfer of EU personal data to the US. We will continue to provide updates on the status of EU-US data transfers as further developments unfold.

[Press release](#)

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