

## EU

### Greek Court Requests Preliminary Ruling on Data Retention

A Greek court, the *Protodikeio Rethymnis*, has [lodged a request](#) for a preliminary ruling by the European Court of Justice in the course of criminal proceedings. The *Protodikeio Rethymnis* wants to establish whether a national law on the groundless retention of communication data is compatible with the European Charter of Fundamental Rights. This follows a line of recent EU-wide judicial referrals and rulings on data retention. In March 2015, the constitutional courts of Bulgaria and the Netherlands had declared national laws on data retention unconstitutional.

## France

### French Government Publishes Medical Data Regulation

The French government has published the first part of a [regulation](#) (*Ordonnance n° 2017-27 du 12 janvier 2017 relative à l'hébergement de données de santé à caractère personnel*) which will remove the requirement for service providers that host medical data to be licensed by the Ministry of Health. Hosting service providers which fall under this category will instead have to be certified by authorised certification bodies.

## Germany

### Federal Network Agency Receives More Consumer Complaints than Ever

In a [press release](#), the German Federal Network Agency (*Bundesnetzagentur*) (the Agency) announced that it received the highest annual number of consumer requests and complaints relating to telecommunications matters to date last year. Consumers made approximately 220,000 enquiries during the course of 2016. Notably, the Agency received 125,000 requests and complaints concerning the misuse of phone numbers and unlawful advertising calls in 2016. In response, the Agency deactivated more than 3,000 phone numbers which were being misused and ordered fines totaling €800,000 due to unlawful advertising calls. This is a substantial increase compared to 2015 when the Agency imposed fines of €460,000 in total.

### Federal Police Tests Self-Service System for Border Controls at Frankfurt Airport

In a [press release](#), the German Federal Police (*Bundespolizei*) announced that, as of 8 December 2016, it will be testing self-service systems for border controls for non-EU nationals at Frankfurt airport. The self-service systems process passengers' biometric data. Initially, the processed data will be examined in an automated way before being transferred to Federal Police staff for further examination. The goal is to provide more efficient border controls and improve safety and comfort for passengers. The project is connected to the European Commission's Smart Border Initiative which was set up to improve the efficiency of the Schengen Area's external borders.

### Video Surveillance in Public Areas – Lawful or Not?

Following a spate of terror attacks across Germany in 2016, the German government has presented a [draft law](#) which will provide a legal basis for the video surveillance of public areas and public events by private operators. In its current form, the law will allow surveillance in circumstances where there is a "particularly important public interest", such as the protection of life, health and freedom. The German Association of Judges has expressed concern that the draft law conflicts with the German Constitution, specifically the fundamental right of informational self-determination. [Questions have also been raised](#) about how effective video surveillance will prove in deterring terrorist attacks. Dependent upon the level of opposition to the proposed measures, the law may become applicable at the same time as the General Data Protection Regulation in May 2018.

### Federal Supreme Court: Personality Rights are not Inheritable

The VI. Civil Chamber of the German Federal Supreme Court (*Bundesgerichtshof*) has [ruled](#) that the heir of a statutorily insured patient has no claim to immaterial compensation for the violation of the patient's personal rights. A socio-medical report on the patient was not sufficiently anonymised and was used in other social/judicial procedures. The Court held, in particular, that claims to immaterial compensation could not be based on Article 7 of the Federal Data Protection Act (*Bundesdatenschutzgesetz*). At the same time, interpreting this provision in conformity with the EU Data Protection Directive 95/46/EC was, in the Court's view, precluded as individual medical reports did not constitute a "personal data filing system" within the meaning of Article 2(c) of the Directive.

## Consumer Association Criticises Draft Law on Automated Driving

The "Verbraucherzentrale Bundesverband", the federal organisation of a German consumer association, has issued a [statement](#) criticising the draft law on automated driving, proposed by the Federal Ministry of Transport and Digital Infrastructure, from both a consumer and data protection perspective. The association states that there is no legal security for drivers as key concepts such as "highly automatised" (*hochautomatisiert*) or "fully automatised" (*vollautomatisiert*) are not defined clearly enough. It calls for a regulation in which drivers of highly automatised cars do not have a permanent supervisory duty and drivers of fully automatised cars have no supervisory duty at all. As far as privacy is concerned, the association criticises the fact that the draft law enables authorities to process car data. It calls for the establishment of a Trust Centre which would administer car data and function as an intermediary between data holders and entitled third parties.

## UK

### ICO GDPR Guidance Begins to Take Shape

As promised at the end of 2016, this week the Information Commissioner's Office (ICO) published its [update](#) on what guidance organisations can expect both from the ICO and the Article 29 Working Party (WP29) during 2017 to assist with compliance with the new General Data Protection Regulation (GDPR). The guidance is to be centralised in the ICO's new "[Overview of the GDPR](#)", which is described as a living document which will be updated as new guidance is produced. The Overview currently includes links to the WP29's recent guidance on [data portability](#), [identifying a lead establishment](#) and the role of the [Data Protection Officer](#). The "[what to expect when](#)" page sets out the WP29's [work plan for 2017](#), which includes upcoming guidance on fines, high risk processing and Data Protection Impact Assessments, certification, profiling, consent, transparency, data breach reporting and international transfers. The ICO aims to publish guidance on "contracts and liability" and consent early in 2017.

## Contacts



### Philip Zender

Partner, San Francisco  
T +1 415 393 9827  
E [philip.zender@squirepb.com](mailto:philip.zender@squirepb.com)



### Francesca Fellowes

Senior Associate, Leeds  
T +44 113 284 7459  
E [francesca.fellowes@squirepb.com](mailto:francesca.fellowes@squirepb.com)



### Stephanie Faber

Of Counsel, Paris  
T +33 1 5383 7400  
E [stephanie.faber@squirepb.com](mailto:stephanie.faber@squirepb.com)



### Annette Demmel

Partner, Berlin  
T +49 30 7261 68 108  
E [annette.demmel@squirepb.com](mailto:annette.demmel@squirepb.com)



### Caroline Egan

Consultant, Birmingham  
T +44 121 222 3386  
E [caroline.egan@squirepb.com](mailto:caroline.egan@squirepb.com)



### Emma Garner

Associate, Leeds  
T +44 113 284 7416  
E [emma.garner@squirepb.com](mailto:emma.garner@squirepb.com)

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