

EU

GDPR Finally Agreed

The General Data Protection Regulation (GDPR) was finally approved by the EU Parliament on 14 April 2016. It will enter into force 20 days after its publication in the EU Official Journal and its provisions will be directly applicable in all member states 2 years after this date. The GDPR, which will replace the current 1995 Data Protection Directive, is designed to give citizens more control of their personal data and includes provisions on: clear and “affirmative” consent, a right to be forgotten, a right to transfer data to another service provider, the right to know when your data has been hacked and stronger enforcement and fines of up to the higher of Euro 20million or 4% of a firm’s total worldwide annual turnover.

The approved data protection package also includes a new directive on data transfers for policing and judicial purposes which member states will have to transpose into national law within two years.

[Press Release](#)

Article 29 Working Party’s Opinion on the EU/US Privacy Shield

The Article 29 Working Party (A29 WP), the advisory body set up under the Data Protection Directive, comprising all the EU national data protection regulators, has issued its Opinion on the proposed EU-US Privacy Shield. The A29 WP welcomed the “*significant improvements*” brought by the Privacy Shield, but also expressed “*strong concerns on both the commercial aspects and the access by public authorities to data transferred under the Privacy Shield*”. It urged the Commission to resolve their concerns and to provide the requested clarifications to improve the draft adequacy decision and to ensure that the protection offered by the Privacy Shield is equivalent to in the EU. The Opinion is non-binding, but one which will guide and inform European Member States’ decision as to whether or not to approve the Privacy Shield. For further details of the A29 WP’s concerns, follow the links to their statement and our more detailed blog.

[A29 WP Statement](#)

[Squire Patton Boggs’ Blog](#)

France

The CNIL Has Published its Annual Report for 2015

The Commission Nationale de l’Informatique et des Libertés (CNIL) has released its Annual Report for 2015. The report sets out, among other things, the number of complaints that the CNIL received and the number of formal notices and sanctions given by the CNIL.

In 2015 the CNIL received 7,908 complaints (a 36% increase from 2014), the majority of which related to the internet (36%), marketing (26%) and human resources (16%). It has issued 93 formal notices (compared to 62 in 2014), the majority of which related to cookies. The increase in formal notices since 2014 is likely to be the result of the new right for the CNIL to carry out online checks.

Finally, the CNIL has imposed 10 sanctions: three fines (€ 15,000, € 50,000 and a non-public sanction) and seven warnings and conducted 501 investigations out of which 87 were regarding CCTV and 155 were online.

[Annual Report \(in French\)\(PDF\)](#)

CNIL Participates in the “ Sweep Day”

The Global Privacy Enforcement Network (GPEN) has decided to focus this year’s Sweep, a worldwide initiative to help combat cybercams, by spending a day intensively searching the internet, on the Internet of Things. It will take place around April or May and will involve a number of data protection authorities from around the world, including the French CNIL. Sweep participants will look at the privacy communications and practices related to Internet connected devices, but each has the flexibility to choose a different category of products and a preferred approach. While some authorities have opted to sweep wearables, health-related devices or appliances, others will be looking at very specific things like smart meters, connected cars or smart TVs.

The CNIL will focus its tests in May 2016 to three categories of objects that could impact privacy in everyday life: (i) home automation objects: connected cameras that can detect movement within the home or measure the air quality; (ii) health related devices: scales, blood pressure monitors and glucose monitors whose purpose is to collect related health data; and (iii) so called “wellness” objects: watches and bracelets, which may collect location data but also calculate the number of steps taken, daily calories consumed and analyse the quality of sleep.

The audit will assess: (i) the quality of the information delivered; (ii) the level of security of data flow; and (iii) the degree of user control over the operation of its data (consent, exercise of rights, etc.).

[CNIL Press Release \(in French\)](#)

Germany

Government Criticism on the Draft “Digitalisation of Energy Transition”

Representatives of the business sector have raised concerns over the government draft for a law to “digitalise” the German energy transition. This follows previous criticism from both the parliamentary opposition and the Bundesrat. One particular concern is how efficient the obligation to install smart meters will be, as well as concerns surrounding the accrual of consumer data by the industry. The Federal Association of the Energy and Water Industry (Bundesverband der Energie- und Wasserwirtschaft e.V. – BDEW) has stated that the price caps for customers would not compensate for the costs of the installation and operation of smart meters. Moreover, the BDEW criticised the proposed new data management system, according to which transmission system operators shall be entitled to collect and evaluate accruing consumer data. The BDEW is of the opinion that the existing system which gives a central role to distribution system operators is both efficient and safe.

[BDEW Press Release \(in German\)](#)

Berlin Data Protection Commissioner Releases Activity Report for 2015

The newly elected Data Protection Commissioner of Berlin, Maja Smoltczyk, has presented a detailed activity report for 2015 covering issues such as the General Data Protection Regulation, Big Data in online dating portals, smart cars and modern traffic telematics and the commercial leasing of expensive technical devices (laptops, multifunctional printers, hard disks). The Commissioner, among other things, warned of “wearable computing” (fitness bracelets) and pointed to the “internationally respected working paper” of the Berlin Group on this topic. The Commissioner also reported that there have been complaints by employees in handicraft businesses because of the pressure created by surveillance – the Commissioner confirmed that tracking systems may not be used for performance monitoring.

[Activity Report \(in German\) \(PDF\)](#)

Turkey

Turkey Adopts First Specific Data Protection Legislation

On 24 March 2016, the Turkish Parliament adopted the first legislation specifically focused on privacy and data protection. This marks the end of a nine year preparation process following Turkey’s signature and recent ratification of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (‘Convention 108’ of the Council of Europe). The goal of the new law is to be in line with the EU Data Protection Directive. The law provides for the establishment of a Data Protection Authority, consisting of around 200 employees, with the authority to impose fines of up to €300,000 and sentence up to four years imprisonment in the event of non-compliance.

[Data Guidance News Release](#)

UK

New ICO Guidance on Direct Marketing

The Information Commissioner’s Office has published updated guidance on direct marketing (including by phone, text, email and automated calling systems) to help organisations comply with their obligations under the Data Protection Act 1998 and the Privacy and Electronic Communications Regulations 2003. The main changes include greater detail on obtaining freely given consent and using bought in marketing lists. There is also more detailed guidance for not-for-profit organisations, such as charities.

[ICO Guidance \(PDF\)](#)

Contact



Annette Demmel

Partner, Berlin
T +49 30 7261 68 108
E annette.demmel@squirepb.com



Stephanie Faber

Of Counsel, Paris
T +33 1 5383 7583
E stephanie.faber@squirepb.com



Caroline Egan

Consultant
T +44 121 222 3386
E caroline.egan@squirepb.com



Francesca Fellowes

Senior Associate
T +44 113 284 7459
E francesca.fellowes@squirepb.com