

France

Formal Notice by the CNIL in Relation to the Public Post-baccalaureate Selection Process "APB"

Following a claim instigated in 2016, the CNIL (the French Data Protection Authority) has sent a formal notice to the Ministry of Higher Education, Research and Innovation, stipulating that the French public post-baccalaureate application and selection procedure is in breach of the French Data Protection Act (FDPA) and they must comply with the act within three months. The breaches are as follows:

- For non-selective training programmes, an algorithm automatically determines the assignment proposals given to the candidates. Article 10 FDPA stipulates that no "decision producing legal effects with regard to a person can be taken solely on the basis of an automated processing of data intended to define the profile of the data subject or to assess certain aspects of his/her personality".
- Secondly, the candidates' information stored on the portal is insufficient in the light of the requirements of Article 32 FDPA, with regards to the identity of the data controller, the purpose of the processing and the data subjects' rights.
- Finally, the access procedure does not allow data subjects to obtain precise information about the algorithm and its functioning. Article 39 FDPA provides that data subjects exercising their access rights must be able to obtain such information.

The General Data Protection Regulation (GDPR), which comes into effect in May 2018, contains a set of rules for automated decisions based on profiling.

Germany

Data Protection Officers Release Guidance Paper on Certification

The [Conference of German Data Protection Officers](#) (*Datenschutzkonferenz*) has released its ninth short guidance paper, on certification according to Article 42 GDPR. The conference stated that, from experience, many companies were certified but still did not fully comply with data protection law; particularly as ISO 27001 only covers a subdomain of data protection and does not take account of the rights of data subjects. The conference outlined the advantages GDPR certification has.

The conference announced that it is currently working intensively on the development of coordinated certification criteria in order to have a harmonised, cross-state implementation in line with the GDPR. The conference held that an uncontrolled growth of many different certification procedures should be avoided with respect to a common European data protection.

Administrative Court Karlsruhe: Supervisory Authorities May Not Apply the GDPR Preventively

The [Administrative Court of Karlsruhe](#) has ruled that an administrative order by the Baden-Württemberg Data Protection Authority against a credit agency, which requires the credit agency to guarantee that it will delete certain personal data, may only be based on the GDPR as of the date of its application (25 May 2018). The current German law (section 38, para. 5, p.1 Federal Data Protection Act) did not allow for preventive measures. The amount in dispute was set at €5,000 and an appeal to the ruling was not admitted.

UK

ICO Fines Firm for 16.7 Million Illegal Calls About Boiler Grants

The [Information Commissioner's Office](#) (ICO) fined Easyleads Limited £260,000 for making 16.7 million automated marketing calls. Easyleads Limited did not have specific consent from the individuals that it made automated calls to about boiler grants, which is against the law. The firm also breached legislation by not including a company name and contact details in the recorded message.

More than 550 complaints were made to the ICO about Easyleads Limited. Furthermore, Companies House has posted plans for Easyleads Limited to be struck off and dissolved.

This fine brought the total number of penalties handed out by the ICO to companies behind illegal recorded messages in the last week to £610,000.

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