

EU

Safe Harbor Decision Declared Invalid

The Court of Justice of the European Union (CJEU) has ruled that the European Commission's Decision 2000/520, which approved the US/EU Safe Harbor regime, is invalid and that the power of national data protection authorities in the EU to examine data transfers cannot be restricted by the existence of a Commission decision. The Court concluded that the Safe Harbor regime puts EU citizens' fundamental right of privacy at risk.

For more insight on this important development, please see our publication:

["European Court of Justice Invalidates Commission Approval of Safe Harbor Program"](#)

[CJEU Decision](#)

Weltimmo Decision Considers Jurisdiction of Data Protection Regulators

The CJEU has handed down another landmark data protection ruling this October in the case of Weltimmo. The case concerned a website run by a Slovakian company, advertising to and collecting personal data from residents in Hungary. The Slovakian company had one representative present in Hungary. Previously, multinational businesses had been subject only to data protection regulation in the Member State in which they were registered. However, the CJEU held that where the entity had an establishment in Hungary (one representative, a bank account and a letter box in the country was sufficient for such establishment) and data was processed for activities in Hungary, the data protection regulations of Hungary applied to that processing. These applied in addition to the regulation by the Slovakian data protection authority. Therefore data protection regulations in each Member State in which a company operates should be complied with.

The Court considered that the Hungarian data protection authority was able to hear and investigate the complaint but could not enforce it. Instead, the Hungarian data protection authority would need to request cooperation from the Slovakian authority.

[CJEU Decision](#)

Approval of Commission Proposals on New Data Protection Rules for Law Enforcement

Ministers in the Justice Council have sealed an overall agreement on the Data Protection Directive for the police and criminal justice sector. This Directive will provide a fundamental right for citizens of data protection when law enforcement authorities process data. At the same time, the Directive will reduce the administrative burdens on authorities needing to use personal data for law enforcement purposes, allowing them to use the same set of data protection rules whatever the origin of the personal data.

This development brings the EU one step closer to achieving its aim of a finalised data protection reform by the end of 2015. The next stage in the legislative process will be trialogue discussions between the Commission, Parliament and Council of the EU which are due to begin later this month.

[Commission press release](#)

Member States Call for Greater European Rail Traffic Surveillance

In a joint declaration adopted on 29 August 2015, a number of EU Ministers of Transport, for the Interior and/or for Justice called for more surveillance in European rail traffic in order to prevent, detect and fight better against "violent actions that radicalised individuals may want to commit". The measures that ministers called for cover the control of passengers and luggage, both in stations and on trains. The participating ministers also called to improve data exchanges between national and European security agencies.

[Declaration of the Ministers for the Interior and/or Justice and Ministers for Transport](#)

Germany

Commissioners for Freedom of Information Criticise Baden-Württemberg Draft on Freedom of Information

The Conference of Commissioners for Freedom of Information (*Konferenz der Informationsfreiheitsbeauftragten* – IFK) has welcomed the plan of the Baden-Württemberg government to adopt a freedom of information act, but at the same time criticised its realisation. The IFK pointed out that the draft act falls short of the freedom of information standards established in Germany. With such a draft, Baden-Württemberg would become the state with the highest costs for the exercise of citizens' rights. The Federal Commissioner for Data Protection and Freedom of Information, Andrea Voßhoff, will take a stand on this topic during the legislative process.

[Press statement](#) (in German)

German Enterprises Found an Organisation for Cyber Security

Four major German enterprises have announced the foundation of a German Organisation for Cyber Security (Deutsche Cyber-Sicherheitsorganisation – DCSO). The DCSO will act as a competence centre and service provider for the German economy as well as an interface towards state agencies. The German Minister of the Interior, Thomas de Maizière, welcomed this project and announced an intense cooperation with the DCSO.

[Press statement](#) (in German)

Administrative Court Considers Video Surveillance of Public Space Inadmissible

In a recent action for interim relief, the Administrative Court of Schwerin, the capital of the German Federal State of Mecklenburg-Vorpommern, has ruled that video surveillance of publicly accessible space and corresponding Internet streaming could not be justified under the German Data Protection Act. The Data Protection Officer of Mecklenburg-Vorpommern had ordered the plaintiff to adjust his two webcams in such a way that the recorded space, in this case a bicycle lane and a beach promenade, was not under surveillance and that passers-by could not be identified.

[Ruling](#) (in German)

Early Warning System “Marktwächter Digitale Welt” Gets an Advisory Board

The Federation of German Consumer Associations (*Verbraucherzentrale Bundesverband – vzbv*) has appointed an advisory board for its early warning system “*Marktwächter Digitale Welt*”. The advisory board will be chaired by Dagmar Hartge, the Data Protection Officer of the German Federal State of Brandenburg. The other members will be representatives from the state administration, politics, civil society and science. The “*Marktwächter Digitale Welt*” which is financially supported by the German Federal Ministry for Justice and Consumer Protection deals with consumer complaints, empirical research and prospectively an online portal.

[Press Release](#) (in German)

UK

National Council for Voluntary Organisations Report on Fundraising Regulation

The National Council for Voluntary Organisations (NCVO) has recently published a report on regulating fundraising and has set out a number of proposals regarding data protection in the fundraising sphere. The NCVO acknowledged the potential for a loss of public trust and confidence in charities as a result of the practices uncovered and has encouraged charities to re-establish their relationship with donors by committing to review the use of donor’s personal data. The report also recommends that the Information Commissioner’s Office (ICO) produces specific guidance on the regulatory approach it will take in the context of charities and fundraising, in particular in relation to informed consent, the period for which consent can be said to be valid and the approach to enforcement where wrongdoing is uncovered. In a published statement, ICO has welcomed the report and noted that it would be producing further guidance on informed consent for fundraising purposes and the timescale that consent is valid.

[NCVO Report – Regulating Fundraising for the Future](#)

Information Commissioner’s Office Recommends Caution with Public Wi-Fi Use

Information Commissioner’s Office (ICO) has reviewed the public Wi-Fi networks available around the UK, and the levels of personal data requested from individuals wanting to connect. ICO found a significant variation in the amount of data requested from users, ranging from no requests for personal data, to the user’s full name, postal, telephone and email address details as well as gender and date of birth. The ICO also found that, generally, these requests were processed for marketing purposes. A number of practical suggestions for users have been provided by ICO, who will also be contacting the Wi-Fi providers reviewed to suggest any necessary improvements.

[ICO Blog Post](#)

US

New York Department for Financial Services Agrees Use of Private Messaging App

The Department for Financial Services (DFS) has reached agreement with four US banks regulating their use of secure private messaging app Symphony. As a condition of the agreement, the DFS has required the retention of copies of all communications for seven years and additionally required the banks to store duplicate copies of the decryption keys to their messages with independent custodians. This is the first time a US regulator has required external storage of decryption keys.

[DFS Press Release](#)

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