

EU

MEPs Raise Concerns Over EU-US Privacy Shield

The European Parliament's Committee on Civil Liberties, Justice and Home Affairs has published a [motion for a resolution](#) in relation to the EU-US Privacy Shield arrangement. Privacy Shield facilitates the lawful transfer of data between the EU and the US. The motion praises the improvements which Privacy Shield has made relative to the old Safe Harbour regime but states that "important questions remain" in relation to matters of commerce, national security and law enforcement, which could lead to a future legal challenge to the adequacy of the protection provided under Privacy Shield. The Committee expressed particular concern over the absence of a right to object to the processing of personal data by a US company that self-certifies under the Privacy Shield regime and the absence of effective remedies for individuals who wish to bring a claim through the regime. MEPs also criticised the lack of clarity over the indiscriminate collection of data by US intelligence agencies for the purposes of mass surveillance which, in the opinion of the Committee, stems in part from the lack of a uniform definition of "bulk surveillance". The Committee concluded its motion by calling for a joint review of Privacy Shield by EU and US authorities on an annual basis.

Germany

Schleswig Holstein: Data Protection Authority Issues Information Leaflet on Privacy in Resident Registration Matters

The Data Protection Authority of Schleswig-Holstein has [issued an information leaflet](#) on privacy issues in the context of the resident registration law of the *Bund* and the *Länder*. The leaflet provides citizens with information on two main questions: "What data is being processed in the register of residents?" and "To which kind of data transfers can a citizen lawfully object?" In basic terms, registration offices process personal data such as an individual's name (current and previous), birth date, nationality, previous addresses, family status, date of moving into and moving out of their home. Under specific circumstances, they can transfer them to private or public entities upon request or automatically. The last page of the leaflet sheet contains a pre-formulated citizen objection to such data transfers.

Bundestag Committee: Experts Criticise Planned Amendment of the Federal Data Protection Act

The government's draft law on a new Federal Data Protection Act, based on the EU General Data Protection Regulation, has received much criticism from experts in a [recent hearing](#) of the Committee for the Interior of the *Bundestag*. The Federal Data Protection Commissioner, Andrea Voßhoff, particularly criticised the draft for its limitation of the rights of data subjects to information and objection, its reduced control rights of supervisory authorities even towards the Federal Intelligence Service and its overly federalist stipulations on the representation of German supervisory authorities within the European Data Protection Board. Among others, the former Federal Data Protection Commissioner, Peter Schaar, was invited as an expert. Schaar stated that Germany, as the first country in the world to adopt a data protection act, has a reputation which it may lose with the government's draft law. In particular, Schaar criticised the draft law for weakening the right of data protection authorities to control the privacy compliance of persons subject to professional secrecy.

UK

ICO Provides Update on ePrivacy Reform

The Information Commissioner's Office (ICO) has issued a [press release](#) reminding stakeholders of forthcoming reforms to ePrivacy rules within the EU. The ICO notes that the new ePrivacy Regulation (ePR), a draft of which was [published earlier this year](#), will come into force in May 2018, at the same time as the General Data Protection Regulation (GDPR). The UK government has confirmed that the ePR will be implemented in UK law before Britain leaves the EU. The draft ePR contains proposals to address the issue of Wi-Fi location tracking, tightened rules on marketing and enhanced powers to fine organisations for non-compliance in line with the GDPR, even when the offending entity is based outside of the EU. In particular, the ePR could introduce requirements for specific consent to be obtained in relation to marketing calls, which is a move away from the Privacy and Electronic Communications Regulations, which currently only require companies to screen against the telephone preference service when making marketing calls. In terms of cookies and tracking devices more generally, the proposed ePR also indicates a shift away from the use of cookie banners and towards users' browser settings. The ICO has made it clear that, at present, it has a watching brief and will be monitoring negotiations to assess how they might affect the implementation of the ePR in the UK before releasing guidance later this year.

ICO Publishes Discussion Paper on the Use of Profiling

The ICO has [published a discussion paper](#) on the use of profiling, which sets out the key areas of data processing that it feels require further consideration, and invites stakeholders to feed back on these issues before 28 April 2017. The ICO explains that profiling entails the analysis of an individual's or group of individuals' behaviour, interests and habits often for the purpose of marketing. The ICO notes that profiling is sometimes carried out without an individual's knowledge and organisations often retain and process more data than is strictly necessary to meet the specified purpose. The ICO also reminds organisations to ensure that they are reliant on a legitimate legal basis for the purpose of carrying out profiling activities. The feedback that the ICO gathers in response to the discussion paper will be used to influence the Article 29 Working Party's guidelines on profiling in the context of the GDPR, which are due to be published later this year.

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