

Europe

Switzerland Adapting Its Regulation to Meet GDPR Standards

The [Swiss Federal Council](#) considers it necessary to adapt Swiss data protection laws in order to retain its “adequacy” decision and strengthen citizens’ rights in line with the standards of the EU and the Council of Europe. The aim is to ensure the free transmission of data between Swiss and European companies in response to the wishes of the economy. The Federal Council has taken into account the comments received during the external consultation.

Germany

Supervisory Authorities Issue Guidance on Data Protection Impact Assessments

The [Conference of the Supervisory Authorities](#) of the Bund and the Länder (Datenschutzkonferenz) has issued a guidance paper on compliance with the new requirement to conduct a data protection impact assessment (DPIA) according to Art. 35 GDPR. The conference stressed that the DPIA is not an isolated act but an ongoing process centred around four phases: preparation, execution, implementation and examination. It announced that it will issue a special paper on how to assess the risk resulting in the requirement to conduct a DPIA (threshold analysis).

Berlin Data Protection Commissioner: Companies Must Take Better Measures Against Identity Theft

In a [press release](#), the Berlin Data Protection Commissioner has announced that in the course of her investigations on identity theft in online shopping, she often saw that online companies did not adopt sufficient measures to prevent identity theft. Consequently, fraudsters could easily trigger the delivery of goods to any address by using the first name, surname and date of birth of another person. As a result, the victims of identity theft are wrongly asked to pay and often have to deal with debt collection companies or credit agencies. The commissioner suggested several measures to combat identity theft, for instance the duty for online companies to carry out checks in the case of anomalies such as a different delivery address.

Conference of German Data Protection Officers Releases Guidance Paper on Information Requirements Under the GDPR

The Conference of [Data Protection Authorities](#) of the Bund and the Länder (Datenschutzkonferenz) has released a guidance paper on how the information requirements for direct collection and third-party collection under the GDPR should be implemented in the nonpublic sector. The conference emphasised that the information requirements go far beyond the current legal situation and build the basis for the exercise of the rights of the data subject. Companies must respect both substantial (detailed notice) and formal requirements (clear and simple language) and must be able to demonstrate compliance. The conference expressed doubts regarding whether the restrictions of the GDPR information requirements under the new German Federal Protection Act are lawful and thus applicable in practice. The conference also pointed out the importance of implementing the newly required technical and organisational measures in order to comply with the information requirements.

The paper is subject to the reservation of a possibly differing future opinion by the European Data Protection Board.

US

Review of the Privacy Shield Commences

On [18 September 2017](#), the first-ever annual review of [Privacy Shield](#) commenced. The Privacy Shield is the US-EU agreement that enables US companies to transfer European digital data to the US. Commerce Secretary Wilbur Ross and European Commissioner for Justice Vera Jourová gave the opening comments to the two-day review held at the commerce’s Washington DC head office.

It is estimated to take a couple of months to compile a report assessing the state of the agreement, which will be considered by the European Commission. Josh Kallmer, Senior Vice President at the Information Technology Industry Council, is positive about the overall success of the review but foresees the possibility of issues coming up, which might include a debate over the legal protections of automated decision.

UK

Data Protection Bill Published

On [13 September 2017](#), the UK government introduced the new Data Protection Bill in the House of Lords. If enacted, the bill will repeal and replace the existing Data Protection Act 1998 and supplement the GDPR. The bill is intended to implement a number of derogations by the UK that are permitted under the GDPR and to carry over a number of exemptions from the Data Protection Act 1998.

The bill's second reading, a general debate on all aspects of the bill in the House of Lords, is scheduled for 10 October 2017. This will be the first opportunity for members of the House of Lords to debate the bill's principles and to flag specific areas they believe require amendment. After a committee stage, a report stage and third reading, all in the House of Lords, the bill will then pass to the House of Commons.

ICO's Consultation on the Draft GDPR Guidance on Contracts and Liabilities Between Controllers and Processors

On [13 September 2017](#), the UK Information Commissioner's Office (ICO) published draft guidance on contracts and liabilities between controllers and processors under the GDPR.

The draft guidance does not add substantial detail to the provisions of the GDPR, but it is a useful reminder of the key points. For example, it highlights the requirement for a written contract between the controller and any of its processors and summarises the provisions that the GDPR states must be included in the contract, specifically:

- The subject matter and duration of the processing
- The nature and purpose of the processing
- The type of personal data and categories of data subjects
- The obligations and rights of the controller
- The obligations of the processor

It is unlikely that current controller-processor contracts will cover all of these points, so existing contracts will need to be reviewed and updated to address these requirements. Consultation on the draft guidance closes on 10 October 2017.

Contacts

**Philip Zender**

Partner, San Francisco
T +1 415 393 9827
E philip.zender@squirepb.com

**Francesca Fellowes**

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

**Stephanie Faber**

Of Counsel, Paris
T +33 1 5383 7400
E stephanie.faber@squirepb.com

**Annette Demmel**

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

**Caroline Egan**

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

**Emma Garner**

Associate, Leeds
T +44 113 284 7416
E emma.garner@squirepb.com