
Data protection updaters

01.11.2016 – 01.12.16

Legal challenges

1. [Legal challenge](#) to Privacy Shield in General Court by La Quadrature du Net, French Data Network and FDN Industry Association – annulment of Privacy Shield sought - 02.11.16
2. Digital Rights Ireland [legal challenge](#) against Irish Data Protection Commissioner – asserted failure to implement the data protection law/Charter of Fundamental Rights through failure to ensure that the Commissioner is independent - 31.10.16
3. Current Digital Rights Ireland challenge to Privacy Shield – details now published in [Official Journal](#) – annulment of decision of EC sought & declaration implementing decision by EC is manifest error of assessment & is null & void
4. UK Supreme Court to [hear Article 50 Brexit appeal](#) in relation to the High Court [judgment](#) in *R (On the application of Miller & Dos Santos) v Secretary of State for Exiting the European Union* on 5-8 December – 08.11.16
5. Judgment from [CJEU](#) due on 21 Dec in [Davis and Watson](#) case concerning UK’s bulk retention & access to communications data – 30.11.16
6. Bavarian Data Protection Authority [fines company](#) for appointing IT manager as its data protection officer due to conflict of interests – highlights risks under the GDPR -12.11.16
7. [Brown v Commissioner of Police for the Metropolis](#) - damages in the event of unauthorised disclosure and use of personal data, and the tort of misuse of private information – referred to at last meeting & included for reference - 07.10.16
8. Investigatory Powers Act – likely legal challenge by NGO ‘[Liberty](#)’ - see also JCHR [report](#) - 25.11.16
9. Brexit – think tank ‘British Influence’ [expresses intention](#) to seek judicial review of Brexit decision, focusing on whether leaving the EU necessarily means leaving the EEA. For an analysis of these arguments see [here](#) - 28.11.16
10. [2 Motions for resolutions](#) seeking an ECJ opinion on the compatibility with the Treaties of the Agreement between the US and the EU on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences – 30.11.16

GDPR developments/analysis articles

1. CIPL and AvePoint Release Global GDPR Readiness Report, summary available [here](#) and the report is accessible [here](#) – 14.11.16
2. ICO Elizabeth Denham’s [speech](#) with preliminary details of expected GDPR guidance - 21.11.16
3. Triennial [Review](#) (“TR”) of ICO’s Office and [Ministerial statement](#) by Matt Hancock confirming: GDPR will come into force on 25.05.16, ICO’s priorities will be around this & changes regulatory landscape post Brexit & UK Government will not adopt recommendations in TR to reconstitute ICO as small multi member Commission
4. How the ICO will be [supporting implementation](#) of the GDPR, ICO Blog, 31.10.16
5. Brexit Files Insight: Why EU [may Battle May](#) over Investigatory Powers Act - 17/11/16
6. The French data protection authority, CNIL publishes results from their GDPR Consultation (summary in English available [here](#) and French document available [here](#) – 18.11.16

Association for Financial Markets in Europe

London Office: 39th Floor, 25 Canada Square, London E14 5LQ, United Kingdom T: +44 (0)20 3828 2700

Brussels Office: Rue de la Loi 82, 1040 Brussels, Belgium T: +32 (0)2 788 3971

www.afme.eu

7. Germany: Commissioners '[highlight uncertainty](#)' regarding GDPR harmonisation in ABDSG report – 17.11.16
8. Privacy Shield lawsuits, admissibility and GDPR requirement for 'direct concern' as a potential [future hurdle](#) to actions by civil groups – 16.11.16
9. Latest [Draft](#) German General Federal Data Protection Act.
10. ICO to form [dedicated government affairs team](#), 21.11.16
11. Umbrella Agreement [backed](#) by European Parliament's Committee on Civil Liberties, Justice and Home Affairs, Agreement to go to EU Ministers of Justice and Home Affairs for approval in weeks
12. Article 29 Working Party [issues statement](#) welcoming EU-US Umbrella agreement and asks for clarification on whether the level of protection of personal data is consistent with EU standards and seeks additional assurances in relation to the scope of redress rights granted to EU Citizens, 10.11.16

Other developments

1. European Commission [probes US on Yahoo email scanning](#) allegations & secret court orders following concerns that this could amount to a breach of the Privacy Shield
2. IAPP Data Protection Congress, [LLEX coverage](#) -18.11.16
3. Investigatory Powers Act 2016 passed – text available [here](#) – 29.11.16
4. The [Trump effect](#) on Privacy Shield: There's a great deal that's unknown -15.11.16
5. German privacy sweep [questions 500 companies](#) on data transfers to cloud based services outside the EU - 07.11.16
6. EU Commissioner for Justice, Consumers and Gender Equality [predicts](#) Ireland will become Europe's key country for protecting EU Citizens' data as main users of personal data are based here – 11.11.16
7. New Council of Europe [data protection website](#) launched
8. [Proposed amendment](#) to the Digital Economy Bill from Labour MPs, proposing data breach reporting regime
9. New Class Action [mechanism](#) for data protection in France, 23.11.16.
10. The French parliament has passed an act '[for a digital republic](#)'. This front runs elements of the GDPR (e.g.: portability and the right to be forgotten), as well as other issues such as opening up public bodies' data and increasing accessibility. (More recent update [available in French](#))

Data breaches – reported incidents

1. Three UK suffers major [data breach](#) via employee login – 18.11.16
2. Hackers [steal money](#) from Tesco Bank

Global

1. Forrester updates [heat map](#) - data protection guidelines/ practices in 54 countries – countries outside the EU are [moving towards](#) the EU standard of data protection and both EU/non EU countries are strengthening surveillance powers
2. China [strengthens](#) its data protection legislation – 15.11.16
3. Asia- Pacific Economic Cooperation [seeks](#) increased company, country participation in CBP