

Press Release

Coordinated audit of international data transfers

Interstate monitoring of corporate data protection supervisory authorities to implement the Schrems II decision of the European Court of Justice

Within the framework of a transnational control, data transfers by companies to states outside the European Union or the European Economic Area (third countries) are reviewed. The aim is to broadly enforce the requirements of the European Court of Justice in its Schrems II ruling of July 16, 2020 (Case C-311/18). In this ruling, the court stated that transfers to the USA can no longer be made on the basis of the so-called Privacy Shield. Moreover, the use of the standard data protection clauses for data transfers to third countries is now only sufficient with the use of effective additional measures if the review by the controller has shown that no equivalent level of protection for the personal data can be guaranteed in the recipient state. In many cases, the ECJ ruling requires a fundamental change in long-practiced business models and processes.

The authorities involved in the inspection are now writing to the companies selected in each case on the basis of a common questionnaire. Among other things, this will cover the use of service providers for sending e-mails, hosting websites, web tracking, managing applicant data and the exchange of customer data and employee data within the Group. Each supervisory authority decides individually in which of these areas it will take action.

The Court has made its expectation that the authorities "suspend or prohibit" unauthorized transfers explicitly clear. Suspending a transfer can likely succeed in many cases through cooperative dialogue with companies. Where this is not possible, the available regulatory measures will be used to respond. The supervisory authorities are aware of the particular challenges that the ECJ ruling on Schrems II poses for companies in Germany and Europe. They are also available to answer questions of understanding in the further course of the examination procedure, insofar as this is possible in accordance with the available capacities.

The questionnaire for the respective groups of cases can be accessed here.

Press releases are sent exclusively as PDFs via the press distribution list.

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