

Coordinated examination of international data transfers Cross-border control of the data protection supervisory authorities of companies to implement the Schrems II decision of the European Court of Justice

As part of a transnational control, data transfers by companies in countries outside the European Union or the European Economic Area (third countries) are checked. The goal is the broad enforcement of the requirements of the European Court of Justice in its Schrems II decision of July 16, 2020 (Case C-311/18). In it, the court determined that transmissions to the USA can no longer take place on the basis of the so-called Privacy Shield. Furthermore, the use of the standard data protection clauses for data transfers to third countries is only sufficient with the use of effective additional measures if the examination by the person responsible has shown that an equivalent level of protection for the personal data cannot be guaranteed in the recipient country. In many cases, the judgment of the ECJ requires a fundamental conversion of long-established business models and processes.

The authorities participating in the control - including the Brandenburg state data protection officer - now write to the selected companies on the basis of a common catalog of questions. Among other things, this will involve the use of service providers for sending e-mails, hosting websites, web tracking, managing applicant data and the intra-group exchange of customer and employee data. Each supervisory authority decides individually in which of these areas it will become active.

The Court has clearly stated its expectation that the authorities will "suspend or prohibit" improper transfers. In many cases, the suspension of a transmission can probably be achieved in a cooperative dialogue with the company. Where this is not possible, the available regulatory measures will be used to respond. The supervisory authorities are aware of the special challenges that the ECJ judgment on Schrems II entails for companies in Germany and Europe. They are also available for questions of comprehension in the further course of the examination procedure, insofar as this is possible in accordance with the available capacities.

The list of questions for the respective case groups can be accessed at the end of this page.

ID number 05/2021

Date 01.06.2021

Responsible: Sven Müller, Poststelle@LDA.Brandenburg.de

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