

Press release - Coordinated review of international data transfers Cross-border control of companies' data protection

supervisory authorities to implement the Schrems II decision of the European Court of Justice

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privacy

press release

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. 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 person responsible's examination 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 inspection 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 be 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 understanding in the further course of the examination process, insofar as this is possible based on the available capacities. "With regard to the transfer of personal data to third countries, the Schrems II decision of the European Court of Justice requires both authorities and economic operators to carry out a critical evaluation and, if necessary, to redesign their own data processing processes. Likewise, the data protection supervisory authorities are obliged to accompany this transformation process and, if necessary, to accelerate it.", says Monika Grethel. "Regardless of this regulatory duty to take into account and execute the decision of the Court of Justice, this examination of individual companies, which is coordinated between a majority of the state data protection authorities, is

intended to specifically aim to draw attention to the problems and duties to act in connection with transfers to third countries."

respective case groups can be accessed under the associated files. Further information: www.datenschutz.saarland.de

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Associated files

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supervisory authorities to implement the Schrems II decision of the European Court of Justice

130KB

Question and answer sheets - applicant portals

47KB

Questionnaire and answer sheet - intra-group - data traffic

47KB

Question and Answer Sheet - Mailhoster

43KB

Question and answer sheet tracking

50KB

Question and Answer Sheet - Webhoster

70KB