



EN

Article 3.

Territorial scope

Article 3.

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.

Recitals

(22) Any processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in that respect.

(14) The protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence, in relation to the processing of their personal data. This Regulation does not cover the processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person.

Guidelines & Case Law

Documents

WP29, [Update of Opinion on applicable law in light of the CJEU judgement in Google Spain](#) (2010).

Case Law

CJEU, [Google Spain SL/Agencia española de protección de datos](#), C-131/12 (2014):

55. In the light of that objective of Directive 95/46 and of the wording of Article 4(1)(a), it must be held that the processing of personal data for the purposes of the service of a search engine such as Google Search, which is operated by an undertaking that has its seat in a third State but has an establishment in a Member State, is carried out 'in the context of the activities' of that establishment if the latter is intended to promote and sell, in that Member State, advertising space offered by the search engine which serves to make the service offered by that engine profitable.

56. In such circumstances, the activities of the operator of the search engine and those of its establishment situated in the Member State concerned are inextricably linked since the activities relating to the advertising space constitute the means of rendering the search engine at issue economically profitable and that engine is, at the same time, the means enabling those activities to be performed. (page 14)

CJEU, [Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein/Wirtschaftsakademie Schleswig-Holstein GmbH](#), C-210/16 (2018):

... where an undertaking established outside the European Union has several establishments in different Member States, the supervisory authority of a Member State is entitled to exercise the powers conferred on it by Article 28(3) of that directive with respect to an establishment of that undertaking situated in the territory of that Member State even if, as a result of the division of tasks within the group, first, that establishment is responsible solely for the sale of advertising space and other marketing activities in the territory of that Member State and, second, exclusive responsibility for collecting and processing personal data belongs, for the entire territory of the European Union, to an establishment situated in another Member State.
(page 14)

2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:

(a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or

Recitals

(23) In order to ensure that natural persons are not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects who are in the Union by a controller or a processor not established in the Union should be subject to this Regulation where the processing activities are related to offering goods or services to such data subjects irrespective of whether connected to a payment. In order to determine whether such a controller or processor is offering goods or services to data subjects who are in the Union, it should be ascertained whether it is apparent that the controller or processor envisages offering services to data subjects in one or more Member States in the Union. Whereas the mere accessibility of the controller's, processor's or an intermediary's website in the Union, of an email address or of other contact details, or the use of a language generally used in the third country where the controller is established, is insufficient to ascertain such intention, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering goods and services in that other language, or the mentioning of customers or users who are in the Union, may make it apparent that the controller envisages offering goods or services to data subjects in the Union.

(b) the monitoring of their behaviour as far as their behaviour takes place within the Union.

Recitals

(24) The processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union should also be subject to this Regulation when it is related to the monitoring of the behaviour of such data subjects in so far as their behaviour takes place within the Union. In order to determine whether a processing activity can be considered to monitor the behaviour of data subjects, it should be ascertained whether natural persons are tracked on the internet including potential subsequent

use of personal data processing techniques which consist of profiling a natural person, particularly in order to take decisions concerning her or him or for analysing or predicting her or his personal preferences, behaviours and attitudes.

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.

Recitals

(25) Where Member State law applies by virtue of public international law, this Regulation should also apply to a controller not established in the Union, such as in a Member State's diplomatic mission or consular post.

General Data Protection Regulation (EU GDPR)

The latest consolidated version of the Regulation with corrections by Corrigendum, OJ L 127, 23.5.2018, p. 2 ((EU) 2016/679). Source: EUR-lex.

Related information Article 3. Territorial scope

Recitals

(22) Any processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in that respect.

(23) In order to ensure that natural persons are not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects who are in the Union by a controller or a processor not established in the Union should be subject to this Regulation where the processing activities are related to offering goods or services to such data subjects irrespective of whether connected to a payment. In order to determine whether such a controller or processor is offering goods or services to data subjects who are in the Union, it should be ascertained whether it is apparent that the controller or processor envisages offering services to data subjects in one or more Member States in the Union. Whereas the mere accessibility of the controller's, processor's or an intermediary's website in the Union, of an email address or of other contact details, or the use of a language generally used in the third country where the controller is established, is insufficient to ascertain such intention, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering goods and services in that other language, or the mentioning of customers or users who are in the Union, may make it apparent that the controller envisages offering goods or services to data subjects in the Union.

(24) The processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union should also be subject to this Regulation when it is related to the monitoring of the behaviour of such data subjects in so far as their behaviour takes place within the Union. In order to determine whether a processing activity can be considered to monitor the behaviour of data subjects, it should be ascertained whether natural persons are tracked on the internet including potential subsequent use of personal data processing techniques which consist of profiling a natural person, particularly in order to take decisions concerning her or him or for analysing or predicting her or his personal preferences, behaviours and attitudes.

(25) Where Member State law applies by virtue of public international law, this Regulation should also apply to a controller not established in the Union, such as in a Member State's diplomatic mission or consular post.

Guidelines & Case Law

Documents

WP29, [Update of Opinion on applicable law in light of the CJEU judgement in Google Spain](#) (2010).

EDPB, [Guidelines 3/2018 on the Territorial Scope of the GDPR](#) (2019).

EDPB, [Guidelines 05/2021 on the Interplay between the application of Article 3 and the provisions on international transfers as per Chapter V of the GDPR](#) (2021).

Case Law

CJEU, [Pammer and Hotel Alpenhof GesmbH/Reederei Karl Schlüter GmbH & Co. KG and Heller](#), C-585/08 and C-144/09 (2010).

CJEU, [Google Spain SL/Agencia española de protección de datos](#), C-131/12 (2014).

CJEU, [Verein für Konsumenteninformation/Amazon EU Sàrl](#), C-191/15 (2015).

CJEU, [Weltimmo s.r.o./Nemzeti Adatvédelmi és Információszabadság Hatóság](#), C-230/14 (2015).

CJEU, [Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein/Wirtschaftsakademie Schleswig-Holstein GmbH](#), C-210/16 (2018).
