

COLLABORATIVE DISCUSSION 2: COMPARING COMPLIANCE LAWS PEER RESPONSES

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MY PEER RESPONSES TO OTHERS

Peer Response: To Robert Draper

Dear Robert,

thank you for your post, which provides a comprehensive summary of the similarities and differences between the EU GDPR and the UK GDPR.

I agree that there is no way to overestimate the significance of adequacy agreements for cross-border data transfers. Although it is still subject to periodic review, the EU's 2021 adequacy decision for the UK permits seamless data transfers, which may cause uncertainty for companies (European Commission, 2021). These agreements emphasise how important it is to have uniform data protection guidelines in order to guarantee compliance and secure personal information.

What practical approaches, in your opinion, can multinational corporations take to simplify compliance with the EU and UK GDPR, and how can they lessen the difficulties stemming from the lack of a "One Stop Shop" mechanism?

Reference:

European Commission. (2021). European Commission adopts UK adequacy decisions. Retrieved from https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3183

Peer Response: To Panagiotis Mourtas

Panagiotis, you've presented a clear and straightforward comparison between the ICO and GDPR rules. Your observations regarding the subtle distinctions between the two regulatory regimes are much appreciated. There are, nonetheless, a few topics that call for more debate.

First of all, even if you accurately point out that the ICO may be more forgiving of some organisations, it's crucial to remember that this forbearance does not translate into less stringent data protection regulations. In order to ensure that smaller businesses or those with less resources may achieve compliance without jeopardising data security, the ICO frequently offers customised guidance and help (ICO, 2018). This cooperative strategy is essential for developing a compliance culture in many industries.

The idea that the ICO "extends the laws in areas not covered by GDPR" also needs more explanation. Following Brexit, the UK enacted the UK GDPR, which is similar to the EU GDPR but incorporates features unique to the UK (Bradford, 2020). Because of this, even while the ICO offers comprehensive advice, it functions under a framework that is essentially in line with the GDPR, guaranteeing uniformity in data protection laws throughout the EU and the UK.

You make a valid argument regarding exclusions, however it's also important to keep in mind that they are strictly controlled and that organisations need to prove that their substitute measures offer comparable protection (ICO, 2020). This guarantees that, whatever the particular legal framework in existence, the integrity of data protection is maintained.

In conclusion, the ICO is essentially in line with the principles of the GDPR even if it offers more precise and context-specific instructions. Effective navigating of both frameworks is necessary for organisations to provide complete data protection.

References:

Information Commissioner's Office, 2018. Guide to the General Data Protection Regulation (GDPR). Available at: <https://ico.org.uk/media/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr-1-1.pdf> [Accessed 14 June 2024]

Bradford, A., 2020. The Brussels Effect: How the European Union Rules the World. New York: Oxford Academic. Available at: <https://doi.org/10.1093/oso/9780190088583.001.0001> [Accessed 13 June 2024]

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PEER RESPONSES TO ME

Peer Response: From Robert Draper

Hello Mahir,

I found your post did a very good job of covering the differences between UK data protection laws and the EU's GDPR. However, I think one of the key differences between them is the governance of data transfers between countries. Whilst the process is very similar, requiring adequacy agreements (ICO, N.D.), the UK is now free to make those agreements on its own accord and so could be more stringent or lenient on security in these partner countries if it desires. As a result, the current compatibility between EU and UK rules is not guaranteed to continue.

I think an interesting discussion point is that although the UK could, in theory, deviate further from the EU's GDPR legislation, there is a question over whether it would want to. GDPR has been described as "the world's strongest set of data protection rules" (Burgess, 2020). Not only was the UK a major contributor to the development of these rules, but as their biggest trading partner, it is also in their interest to align to the EU's rules. Any changes could risk their compatibility and jeopardise data flows between them.

References

Burgess, M. (2020) What is GDPR? The summary guide to GDPR compliance in the UK. Wired. Available from: <https://www.wired.com/story/what-is-gdpr-uk-eu-legislation-compliance-summary-fines-2018/> [Accessed 05 June 2024]

ICO (N.D.) International Data Transfers. Available from: <https://ico.org.uk/for-organisations/data-protection-and-the-eu/data-protection-and-the-eu-in-detail/the-uk-gdpr/international-data-transfers/> [Accessed 05 June 2024]

My Response: To Robert Draper

Hello Robert,

Thank you for your insightful comments on my post. You have rightly highlighted a critical aspect of data protection—governance of data transfers between UK and EU—which warrants further discussion.

In fact, a degree of complexity and possible heterogeneity in data protection requirements is introduced by the UK's independence to negotiate its own data transfer agreements after Brexit. In order to provide appropriate protection, the GDPR imposes strict requirements on data transfers. Typically, these restrictions require foreign countries to show that their levels of data security are comparable through adequacy judgements (European Commission, 2020). Since the UK is no longer subject to the EU's regulatory framework, it must negotiate its own adequacy agreements, which may result in more stringent or lenient data protection regulations based on diplomatic relations and strategic interests (Murray, 2021).

You make a valid argument when you mention that the UK has a strategic interest in complying with GDPR given its status as a significant trading partner. The United Kingdom's diligent involvement in the GDPR's creation demonstrates its dedication to strong data protection regulations. Furthermore, adhering to EU legislation guarantees smooth data transfers, which are essential for companies doing cross-border operations (Bradford, 2020). Deviations could make operations more difficult and create legal ambiguities, which might hurt the UK's standing in the global data economy (Schrems, 2020).

Best regards,

Mahir

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European Commission, 2020. *Adequacy Decisions*. Available at: https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en [Accessed 08 July 2024]

Murray, A.D., 2021. *Information Technology Law: The Law and Society*. Oxford University Press.

Bradford, A., 2020. *The Brussels Effect: How the European Union Rules the World*. New York: Oxford Academic. Available at: <https://doi.org/10.1093/oso/9780190088583.001.0001> [Accessed 09 July 2024]

Schrems, M., 2020. *GDPR's Global Influence: The EU as a Regulatory Superpower*. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3699256 [Accessed 10 July 2024]