



BREXIT: United Kingdom becomes a third country within the meaning of data protection law

Welcome to our newsletter data protection.

With respect to the upcoming General Data Protection Regulation 2016/679 (“GDPR”), which will apply as of 25 May 2018, the European Commission announced in a communication as of 9 January 2018 that the United Kingdom of Great Britain and Northern Ireland will be classified from 30 March 2019 (12:00 a.m. CET) – subject to a different date in an exit agreement – as so-called “third country” within the meaning of the GDPR.

As a result of this unsurprising realization that in terms of data protection law the United Kingdom will be treated in the same way as the USA, Russia or China after the withdrawal from the EU, the European Commission has even extended the data protection requirements already existing due to the GDPR.

Due to the lack of an adequacy decision according to Article 45 (3) of the GDPR on the level of data protection in the United Kingdom, pursuant to Article 46, 49 of the GDPR the transfer of personal data is only permitted if suitable guarantees are available or special exceptions apply.

As the final consequence, this results in the need to check all legal relationships with companies, subsidiaries, business partners, customers etc. in the UK from a data protection point of view, since a violation according to Article 83 (5) (c) of the GDPR may be fined up to EUR 20,000,000, or in the case of an undertaking, up to 4 % of the total

worldwide annual turnover of the preceding financial year.

Suitable guarantees may be the use of standard data protection clauses, approved codes of conduct according to Article 40 GDPR, binding corporate rules according to Article 47 GDPR or an approved certification mechanism according to Article 42 GDPR. Likewise, the transfer may be permissible on a case-by-case basis due to the specific exceptions of Article 49 GDPR. Which measures are suitable and most practical to perform the transmission of personal data to and from the United Kingdom in compliance with the GDPR can only be determined in each individual case.

Our experts in data protection law advise you comprehensively on the various options for conducting your business relations with the United Kingdom in compliance with the new General Data Protection Regulation even after 30 March 2019.



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