Centre for Information Policy Leadership
GDPR Project Webinar

*Trends in Recent Case Law of the CJEU in the area of EU Data Protection*

20 June 2018 | 10:30 AM – 12:00 PM
Agenda

10:30 AM  Introduction
    Bojana Bellamy, President, CIPL

10:35 AM  Presentation of Key Cases
    Hielke Hijmans, Senior Policy Advisor, CIPL
    Christopher Docksey, Honorary Director General, EDPS

11:20 AM  Interview and Q&A Session
    Bojana Bellamy, President, CIPL
    Hielke Hijmans, Senior Policy Advisor, CIPL
    Christopher Docksey, Honorary Director General, EDPS

11:55 AM  Closing Remarks

12:00 PM  End of Webinar
Background

• Two recent Landmarks: Entry into Application GDPR and signing of Council of Europe’s updated Protocol Amending Convention 108
• Court of Justice of the EU continues its significant contributions to interpretation of data protection law; contributions remain part of the *acquis*
• 5 June 2018 important judgement in Case C-210/16 - Wirtschaftsakademie Schleswig-Holstein
• This Webinar on recent cases raising issues relevant for CIPL members and recent trends
Relevance of the case law in the era of the GDPR

• Principles of data protection did not fundamentally change
• In some instances, GDPR codifies case law
• Only in some areas, GDPR provides for new concepts
• Expectation: many future cases will be decided following existing case law
Contributions of the CJEU

• In 2014 and 2015, three major landmark cases:
  - Joined Cases C-293/12 and C-594/12, Digital Rights Ireland
  - Case C-131/12, Google Spain
  - Case C-362/14, Schrems I
    - Effectiveness of EU fundamental rights as starting points for judgments
    - Data protection rules are assessed against these fundamental rights
    - Quite revolutionary outcomes
• It did not stop there. Recent rulings include:
  - 2016: Case C-582/14, Breyer
  - 2017: Opinion 1/15 CJEU on EU-Canada PNR
  - 2017: Case C-434/16, Nowak
  - 2018: Case C-498/16, Schrems II
  - 2018: Case C-210/16, Wirtschaftsakademie
The Main Trends

- Scope of concept of personal data in EU law is wide
- Notion of controllers wide; includes platforms: social network providers and search engines
- Wide scope of data protection law paralleled by narrow approach to exceptions
- Case law based on effectiveness of individuals’ protection, and recognition of importance of legitimate interest processing
- Considerations of effectiveness further defined in follow-up of famous Costeja case
The Main Trends Part II

• Territorial scope of EU data protection law is wide
• Essential equivalence not necessarily required in SCCs and BCRs
• Expect the CJEU to be strict in dealing with differences arising in areas of national discretion
• European Court of Human Rights still plays important role
• GDPR may lead to more litigation
Recent Judgements

- Case C-582/14, Breyer (19 October 2016)
- C-398/15, Manni (9 March 2017)
- Opinion 1/15 CJEU on EU-Canada PNR Agreement (26 July 2017) (binding)
- Case C 73/16, Puskar (27 Sept 2017)
- C-434/16, Nowak (20 December 2017)
- C-498/16, Schrems II (25 January 2018)
- C-210/16, Wirtschaftsakademie Schleswig-Holstein (5 June 2018)
Most Relevant Pending Cases

• Case C-207/16, Ministerio Fiscal
• Case T-738/16: La Quadrature du Net a.o./Commission
• Case C-25/17, Jehovah’s witnesses
• Case C-40/17, Fashion ID (also involving Facebook)
• Case C-136/17, G.C. and others/CNIL
• Case C-507/17: Google Inc./CNIL
• Case C-623/17, Privacy International