

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



- 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:
 - o 2016: Case C-582/14, Breyer
 - o 2017: Opinion 1/15 CJEU on EU-Canada PNR
 - 2017: Case C-434/16, Nowak
 - 2018: Case C-498/16, Schrems II
 - o 2018: Case C-210/16, Wirtschaftsakademie



- 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 followup of famous Costeja case



- 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



- 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)
- Court Order T-670/16: Digital Rights Ireland/European Commission (22 November 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)



- 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