

Privacy & Data Protection

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Headlines

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- Latest GDPR fines, p.19
- Age Appropriate Design Code now in force in UK, p.20

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CJEU invalidates Shield; Germany issues specific guidance

Over the Summer, the Court of Justice of the EU unexpectedly invalidated the US-EU Privacy Shield with immediate effect.

On 16th July when delivering its much anticipated 'Schrems II' judgment, the Court held that US national security powers and programmes conflict with the fundamental rights of people in the EU (in part due to overly broad data collection), and do not provide adequate remedies for EU citizens who suspect their fundamental rights have been violated.

The European Data Protection Board issued an FAQs document in the wake of the ruling (copy at: www.pdpjournals.com/docs/888086). This document represents the most authoritative position on the decision until further guidance is issued. Importantly, page 3 of the FAQs indicate that there is no grace period for complying with the CJEU's decision.

As a result of the judgment, and on the basis of the FAQs, organisations must immediately treat the Privacy Shield as debunked, and put in place alternative

ways to legitimise transfers.

In late August, the Commissioner for Data Protection and Freedom of Information for the German State of Baden-Württemberg ('German regulator') issued specific guidance on how to navigate the ruling. The guidance is the first to address the issues in depth.

The German regulator reiterates that the Privacy Shield no longer constitutes a valid legal basis for the transfer of data,

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Police facial recognition use unlawful — landmark ruling in UK

The UK Court of Appeal has unanimously reached a decision against South Wales Police's use of a face-recognition system. The judgment, which describes the use of automated face recognition as 'unlawful', could have ramifications for the widespread use of such technology across the UK.

Ed Bridges, who initially launched a case after police cameras digitally ana-

lysed his face in the street, had appealed, with the support of personal rights campaign group Liberty, against the use of face recognition by police. The police force claimed in court that the technology was similar to the use of closed-circuit television (CCTV) cameras in cities. The entire panel of the Court of Appeal judges disagreed.

The system in question, AFR Locate, had been trialled across the South Wales police force since 2017 at large events such as concerts and sports matches. It compares images captured using the system against a database of images of people on a watch list, including criminal suspects and people of interest.

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