

FLINN

AN UPDATE ON GDPR
AND BREXIT

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AN UPDATE ON GDPR AND BREXIT

WITHDRAWAL AGREEMENT



POLITICAL DECLARATION



NO DEAL



~~Nothing~~ Very
little has
changed

WITHDRAWAL AGREEMENT TITLE VII DATA & INFORMATION ...

Article 70
'Union DP Law'
means:
a) the GDPR
b) Processing of
personal data related
to crime
c) Dir 2002/58 (on
ePrivacy)
(d) any other
provision of Union
law governing the
protection of
personal data

Article 71 - 1. Union
DP Law will apply in
UK to data subjects
from outside UK,
provided that the
personal data: (b) are
processed in the UK
after the end of the
transition period on
the basis of this
Agreement.

Article 71 2. 2.
Paragraph 1 shall
not apply to the
extent the
processing of the
personal data
referred to therein is
subject to an
adequate level of
protection

ARTICLE 72
Confidential
treatment and
restricted use of data
and information in
the United Kingdom

ARTICLE 73
Treatment of data
and information
obtained from the
United Kingdom -
non-discrimination

Article 74 -
Information Security



POLITICAL DECLARATION

□ I. Basis for Cooperation

❖ A. Respect for and safeguarding of human rights and fundamental freedoms are 'Core values and rights'

❖ B. Data protection

... the Parties should also make arrangements for appropriate cooperation between regulators.

□ V. Digital

❖ (...) an open, secure and trustworthy online environment for businesses and consumers,"

□ II. Law enforcement & judicial cooperation in criminal matters.

❖ "It should also be underpinned by long-standing commitments to the fundamental rights of individuals, including continued adherence and giving effect to the European Convention on Human Rights, and adequate protection of personal data, (...)



NO DEAL

Ministers claim that they will be able to negotiate a new trade relationship with the EU before the end of 2020, but the withdrawal agreement allows the transition to be extended for an extra year or two years.



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NO DEAL

□ GDPR: Article 45 2. When assessing **adequacy** the Commission shall take account of the following elements:

(a) the rule of law, respect for human rights and fundamental freedoms, relevant legislation, (...)

(b) The existence and effective functioning of one or more independent supervisory authorities (...)

□ **Convention 108 +**

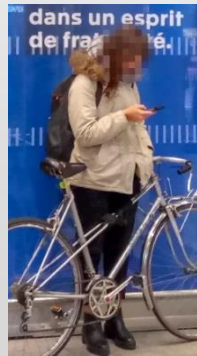
48. The conditions for legitimate processing are set out in paragraphs 3 and 4. Personal data should be processed lawfully, fairly and in a transparent manner. Personal data must also have been collected for explicit, specified and legitimate purposes, ...

□ Council of Europe 'Convention 108+' (Convention for the protection of individuals with regard to the processing of personal data) was signed by UK in October 2018



NO DEAL

- ❑ No 'glide-path' to an finding of 'adequacy'
- ❑ In Big Brother Watch and Others v. The United Kingdom (13 Sept 18) the ECtHR held the UK's bulk interception regime violated Article 8 of the ECHR (right to respect for private and family life/communications). That finding was made under previous legislation.
- ❑ The ECtHR Grand Chamber heard Big Brother Watch and Others v. the United Kingdom (application no. 58170/13) on 10 July 2019 .
- ❑ The case concerns complaints by journalists, individuals and rights organisations about three different surveillance regimes: (1) the bulk interception of communications; (2) intelligence sharing with foreign governments; and (3) the obtaining of communications data from communications service providers.



WHY IT MATTERS



LES DÉFINITIONS CLÉS

DROIT À LA PROTECTION DE LA VIE PRIVÉE

LA DÉCLARATION UNIVERSELLE DES DROITS DE L'HOMME (10 DÉCEMBRE 1948),
ARTICLE 12

Nul ne sera l'objet d'immixtions arbitraires dans sa vie privée, sa famille, son domicile ou sa correspondance, ni d'atteintes à son honneur et à sa réputation. Toute personne a droit à la protection de la loi contre de telles immixtions ou de telles atteintes.

CONSTITUTION BELGE, ARTICLE 22

Tout le monde a droit au respect de sa vie privée et familiale, sauf dans les cas et aux conditions fixés par la loi.

CHARTRE DES DROITS FONDAMENTAUX DE L'UE, CHAPITRE II, LIBERTÉ, ARTICLE 7

Respect de la vie privée et familiale

Toute personne a droit au respect de sa vie privée et familiale, de son domicile et de ses communications.

THANK YOU FOR YOUR KIND ATTENTION



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