

## Trending Topics of the month



Privacy and  
Data Protection



Intellectual  
Property



Artificial  
Intelligence

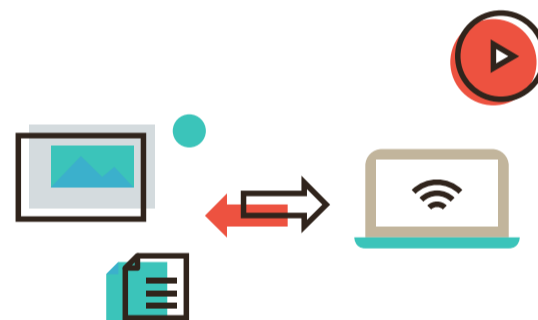
#Privacy and Data Protection

### EU-US data transfers: MEPs discuss the adequacy of the EU-US Data Privacy Framework



On 1 March 2023, the Members of the European Parliament (MEPs) debated a draft motion for a resolution on the European Commission's draft adequacy decision regarding the EU-US Data Privacy Framework, as well as the [European Data Protection Board \(EDPB\) opinion](#) on the matter, issued on 28 February.

During the debate, the European Data Protection Board (EDPB) was heard in the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE), on the European Commission's proposed implementing decision, submitted in December 2022 under Article 45 of the GDPR on the adequacy of the level of data protection of the Data Privacy Framework between the EU and the US (DPF).



The EU-US Data Privacy Framework is another attempt to create a legal framework to allow the transfer of personal data between the EU and the US, while ensuring an adequate level of protection equivalent to the one afforded by the GDPR. The previous two adequacy decisions, based on the [Safe Harbour](#) and [Privacy Shield](#) frameworks, were both invalidated by the Court of Justice of the European Union (CJUE). The concerns related in particular to US intelligence activities and the lack of an effective judicial remedy for EU citizens.

For more information, please see the [European Parliament press release](#). 

## SIS regulations enter into operation

The Schengen Information System (SIS) regulations entered into operation on 7 March 2023, being now under the purview of the Coordinated Supervision Committee (CSC). The CSC brings together the national data protection authorities (DPAs) and the European Data Protection Supervisor (EDPS) to ensure coordinated supervision of large-scale IT systems and of EU bodies, offices and agencies, in accordance with Art. 62 of [Regulation \(EU\) 2018/1725 of the European Parliament and of the Council of 23 October 2018](#) on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

SIS is a large-scale IT system which supports internal security and the exchange of information on persons and objects between national police, border control, customs, visa and judicial authorities within the Schengen area. The SIS regulations contain specific rules on the protection of personal data, and the General Data Protection Regulation (GDPR) and [Directive \(EU\) 2016/680 of the](#)

[European Parliament and of the Council of 27 April 2016](#) on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, transposed into national law by [Law 59/2019 of 8 August 2019](#).

All individuals have the right of access to their personal data processed in the SIS, as well as the right to have their data rectified if inaccurate, or deleted if unlawfully processed. These rights can be exercised in any Schengen State. In Portugal, for instance, these rights can be exercised before the [National SIRENE Bureau](#) (Gabinete Nacional SIRENE, or GNS). The Portuguese Data Protection Supervisory Authority (Comissão Nacional de Proteção de Dados, or CNPD) is Portugal's national supervisory authority under the SIS, forming part of the CSC, which operates within the framework of the EDPB.

For more information, please see the [EDPB webpage regarding the CSC](#). 

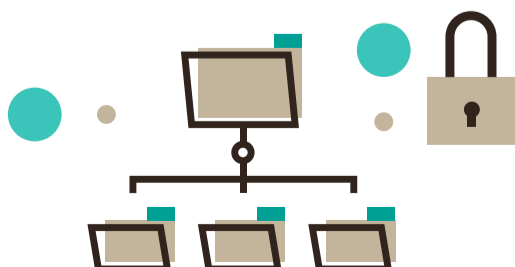
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## New UK GDPR

On 8 March 2023 the United Kingdom (UK) government's new Department for Science, Innovation and Technology (DSIT) published proposals for changes to UK data laws in the [Data Protection and Digital Information \(No. 2\) Bill](#).

This new draft is part of the UK government's desire to position the country as a more attractive location for digital economy businesses in the post-Brexit era and, essentially, to alter data protection laws within a more business-friendly legal framework.

While changes to the [UK GDPR](#) and [Data Protection Act](#) may attract some degree of opportunity in that regard, they also carry risks for businesses in terms of legal uniformity, possibly undermining the [adequacy decision](#) already approved by the European Commission



## Coordinated enforcement on role of Data Protection Officers

On 15 March 2023, the EDPB launched its 2023 [coordinated enforcement framework](#) (CEF). During the course of the current year, 26 DPAs across the European Economic Area (EEA), including the EDPS, will take part in CEF 2023 on the designation and position of data protection officers (DPOs).

DPOs play an essential role in contributing to compliance with data protection laws and promoting effective protection of data subject rights. The main objective of this year's CEF is to learn more about that role played by DPOs and to ensure that they have the position required by Articles 37 to 39 of the GDPR in their organisation, as well as the necessary resources to perform their duties.

Participating DPAs will implement the CEF at a national level in a number of ways:

- Questionnaires sent to DPOs to identify if a formal investigation is warranted;
- Commencement of a formal investigation;
- Follow-up of ongoing formal investigations.

In Portugal, the CNPD will directly contact the DPOs notified to the European Commission by all public and private organisations to voluntarily participate in this action and answer the CEF 2023 questionnaire. CNPD has already stated that this will not entail an investigative action, as it wants first and foremost to have a deeper understanding of the DPOs role in organisations, so that it can also find ways to better support their work. In that regard, DPOs will not have to identify themselves or their organisation to take part in the CEF 2023 questionnaire.

For more information, please see the [EDPB press release](#) and [CNPD press release](#). 


# Intellectual Property

## EPO Guidelines for Examination 2023 enter into force



On 1 March 2023 the [EPC](#) and [PCT-EPO](#) guidelines 2023 entered into force, superseding the editions of March 2022.

The EPC guidelines give instructions on the practice and procedure to be followed in the various aspects of the examination of European applications and patents in accordance with the [European Patent Convention and its Implementing Regulations](#).

On the other hand, the PCT-EPO guidelines contain instructions on the practice and procedure to be followed in the various aspects of the handling of international applications before the European Patent Office (EPO) in its capacity as International Searching Authority and International Preliminary Examining Authority. 




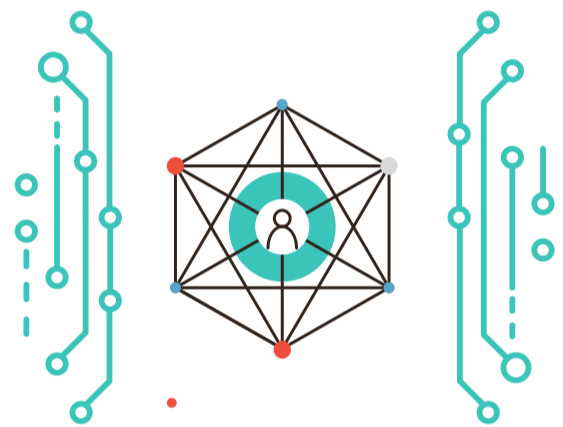
## EPO and European Commission sign agreement on Unitary Patent

On 7 March 2023 the EPO and the European Commission signed a working arrangement on European patents with unitary effect, in accordance with Article 14 of [Regulation \(EU\) No 1257/2012 of the European Parliament and of the Council of 17 December 2012](#) implementing enhanced cooperation in the area of the creation of unitary patent protection.

The arrangement relates to cooperation and exchange of views between the two institutions to enhance the benefits of the [Unitary Patent system](#) and promote its widespread use particularly among small and medium-sized enterprises. Moreover, it includes a provision regarding the sharing of data and information between the EPO and the European Commission and insights from surveys and case studies concerning the promotion and use of the Unitary Patent.

In preparation for the launch of the Unitary Patent system starting on 1 June 2023, the EPO continues to offer transitional measures to all patent applicants in the final stages of the granting process.

For more information, please see [EPO press release](#). 




### #Artificial Intelligence

## The US Chamber of Commerce's Artificial Intelligence (AI) Commission publishes a Report on the promise of AI




On 9 March 2023, the US Chamber of Commerce's Artificial Intelligence Commission on Competitiveness, Inclusion, and Innovation released a [comprehensive report](#) on the promise of AI, while calling for a risk-based regulatory framework to ensure a responsible and ethical use of this technology.

For more information, please see the [U.S. Chamber of Commerce press release](#). 

## ICO Guidance on AI and Data Protection has been updated

On 15 March 2023, [ICO Guidance on AI and Data Protection](#) has been updated after requests from UK industry to clarify requirements for fairness in AI. This update is aligned with the UK government's vision of a pro-innovation approach to AI regulation.


For more information, please see [ICO press release](#). 

## The UK government publishes a white paper on AI

On 29 March 2023, the UK government published a [Policy Paper detailing its plans for implementing a pro-innovation approach to AI regulation](#). The aim of this paper is to guide the use of AI in the UK by striking a balance between regulation and innovation.

In that regard, the Paper addresses, among other things, the principles applicable to AI (i.e., safety, transparency, fairness, accountability and contestability) and the shared values and standards which AI professionals must comply with.

The UK government is now seeking views through a supporting consultation.

For more information, please see the [UK Government press release](#). 



This document was prepared by the TECHNOLOGY, DATA AND DIGITAL INNOVATION team of **CS'Associados**.

For further information please contact

**Jorge Silva Martins**  
[jorge.silvamartins@csassociados.pt](mailto:jorge.silvamartins@csassociados.pt)



João Carminho



Inês Coré

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