

# Data Protection Ireland

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## Headlines

- ‘Trailblazer’  
Helen Dixon bid  
a farewell, p.18
- Tensions between  
EDPB and DPC  
on Meta, p.19
- Around half of  
companies  
experienced a  
cyber incident,  
survey finds, p.20

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## EU court lowers requirements for imposing fines for breaches

The Court of Justice of the EU (‘CJEU’) has given rulings that effectively limit the circumstances in which organisations can be issued with GDPR fines.

In two judgments made following referrals from one German and one Lithuanian court (Cases C-683/21 and C-807/21), the CJEU ruled that controllers that breach the requirements of the GDPR can only be fined for doing so if it can be shown that their infringement was intentional or that they acted negligently.

In considering whether the infringement was committed intentionally or

negligently, “a controller may be punished for conduct falling within the scope of the GDPR if he could not have been unaware of the illegality of his actions, regardless of whether he perceived that he was in breach of the provisions of the GDPR” according to the judgment. Neither the action nor the knowledge of the “management body” of an organisation is required to establish intent or negligence on the part of a controller.

The CJEU said that establishing fault is a condition for the imposition of a fine under the GDPR and that this view, which is based on the

Court’s interpretation of the GDPR’s rules governing when administrative fines can be imposed, is supported by the Regulation’s general framework and purpose.

Jonathan Kirsop, Partner and Head of Technology at Pinsent Masons, commented that the rulings provide welcome clarification of the principles for issuing administrative fines under the GDPR.

“The judgment(s) seem to limit the scope for fines being imposed for more ‘technical’ or administrative breaches where a controller has acted in

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## Minister receives Cabinet approval for draft Facial Recognition Technology Bill

The Minister for Justice Helen McEntee TD has received government approval to publish the General Scheme of the Garda Síochána (Recording Devices) (Amendment) Bill 2023, which will allow An Garda Síochána to use Facial Recognition Technology (‘FRT’) in specific circumstances.

“FRT will save thousands of Garda hours by allowing the use of biometric identification to retrospec-

tively search CCTV. It is a key element of Minister McEntee’s agenda to build stronger, safer communities,” states the government’s press release.

The publication of the draft FRT Bill closely follows the passage of the [Garda Síochána \(Recording Devices\) Act 2023](#) through the Oireachtas on the 29th November 2023. That Act, which was signed

into law on the 5th December 2023, will allow An Garda Síochána to rollout bodycams from Spring 2024, starting in Dublin city centre. It will also provide for a statutory framework for the use by An Garda Síochána of recording devices and the processing of video and audio data to support its functions in investigating, detecting, preventing and prosecuting criminal of-

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