

Data Protection Ireland

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- EDPB and EDPS call for ban on facial recognition, p.19
- Latest GDPR fines, p.20

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Cross-border cases not limited to leading authority, CJEU rules

National Supervisory Authorities have the power in exceptional circumstances to launch GDPR infringement proceedings against firms registered in another EU Member State, the Court of Justice of the European Union has ruled, in a judgment which seems set to reduce the regulatory burden on the Data Protection Commission.

Facebook Ireland Limited, Facebook Inc., Facebook Belgium BVBA v. the Belgian Supervisory Authority (Case C-645/19) was a case initiated by the Belgian Privacy Commission in September 2015 following alleged

data breaches by Facebook Inc., Facebook Ireland and Facebook Belgium.

The Belgian regulator considered that Facebook and its subsidiaries were breaching data protection law by gathering behavioural data from Belgian internet users, even when they did not have a Facebook account. The acquisition of data occurred through tracking technology such as cookies, social plug-ins and pixels.

The Belgian court upheld the view of the SA on the grounds that internet users had not been adequately informed about Facebook's data collec-

tion practices and so could not consent to it. The social network appealed against the judgement in March 2018, shortly after which the GDPR entered into force. The appeal court required guidance on the operation of One-Stop Shop, questioning whether it had the jurisdiction to intervene against Facebook Belgium when Facebook Ireland is the controller within the EU.

The CJEU confirmed that there are circumstances in which SAs that are not the Lead SA for an organisation can

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EDPB releases final version of supplementary measures

The European Data Protection Board has adopted a final version of its recommendations on supplementary measures for the purposes of legitimising data transfers following the *Schrems II* judgment.

Although the recommendations are not binding, they reflect the interpretative understanding of the law by the EU Supervisory

Authorities, and are therefore likely to be reflected in enforcement action.

The first version of the recommendations was issued for consultation in November 2020.

The final recommendations retain the six step approach outlined in the draft recommendations to considering proposed

data transfers, which form a 'transfer impact assessment'.

The six steps are: know your transfers; verify the data transfer mechanism; assess the law or practice of the third country to ensure that it does not impinge on the effectiveness of the transfer mechanism identified as

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