

Brexit (British Exit): what are the consequences for cross-border data flows?

After the referendum in the United Kingdom on EU exit (Brexit) in June 2016, the British government notified its decision to withdraw from the EU. The procedure for the United Kingdom's exit from the European Union is due to be completed on **31 January 2020** and until that date, the United Kingdom remains a Member State of the European Union.

Disclosure of personal data in the United Kingdom or Gibraltar

In order to be able to communicate data abroad, the conditions set out in Article 6 FADP must be met. This article provides that personal data may only be transferred abroad if the country of destination has legislation that can guarantee an appropriate level of protection (Art. 6 (1) FADP) or, in the absence of such legislation, if the level of protection is ensured by other rules or guarantees (Art. 6, paragraph 2, letters a and g FADP).

Pursuant to Article 31, paragraph 1, letter d FADP, the FDPIC may generally determine whether the level of protection in a State is adequate, so that all data communications to that State are authorised. This presupposes, in particular, that the recipient of the data is subject to a law that offers a level of data protection comparable to the one offered by Swiss law (guarantee of the rights of the data subjects, respect for the key data protection principles, independent supervisory body). To this end, it publishes a list of States that meet these requirements (art. 7 OFADP). The latter is kept constantly up to date.

The United Kingdom and Gibraltar are currently listed in the column of countries with an adequate level on this list and the FDPIC does not currently have any evidence suggesting a change in the status on the list. With regard to the legal consequences of Brexit on the protection of personal data after 31 January 2020, the UK Personal Data Protection Authority (ICO) has also indicated on its [website](#) that a high level of personal data protection will be maintained in the UK.

If, however, the FDPIC were to consider a change in the status of the United Kingdom or Gibraltar on its list, it would inform companies in due course in order to enable them to prepare, in particular through the use of standard contracts.

See also relevant [information from the European Commission](#) on this subject.

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