



A 'NO-DEAL' BREXIT: DATA PROTECTION

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Data protection is of fundamental importance in the European Union. The EU has the strongest and most modern data protection rules in the world, which are becoming a global standard.

In case of a 'no-deal' scenario, the EU has a comprehensive set of rules governing the transfer of personal data to third countries. This is the basis on which transfers will then take place with the United Kingdom (UK).

These rules include in particular the **General Data Protection Regulation (GDPR)**, and the **Law Enforcement Directive**.



Data transfers to third countries are possible under the General Data Protection Regulation using:

- **Standard Contractual Clauses:** Business operators can rely on these clauses for data transfers to third countries.
- **Binding Corporate Rules:** Legally binding data protection rules can apply within a corporate group.
- **Codes of conduct and certification mechanisms:** Tools can offer appropriate safeguards for transfers of personal data if they contain binding and enforceable commitments by the organisation in the third country for the benefit of the individuals.
- **Derogations:** Exceptions to the rule are possible on the grounds of explicit consent, performance of a contract, exercise of legal claims or important reasons of public interest (see below).



Practical steps to be taken by public authorities and companies when transferring data to the UK:

- 1 Identify what processing activities will imply a personal data transfer to the UK.
- 2 Determine the appropriate data transfer instrument for the situation.
- 3 Implement the chosen data transfer instrument to be ready for the withdrawal date.
- 4 Indicate in the internal documentation that transfers will be made to the UK.
- 5 If relevant, update the privacy notice accordingly to inform individuals.



Data transfers based on derogations: what are they for?

Derogations, namely exceptions to the rule of having to put in place appropriate safeguards, must be interpreted restrictively and be related to occasional and non-repetitive processing activities.

These derogations include cases such as:

- > An individual has explicitly consented to the proposed transfer after having been fully informed about the relevant risks.
- > The transfer is necessary for the performance or the conclusion of a contract, or the contract is concluded in the interest of the individual.
- > The data transfer is necessary for important reasons of public interest (e.g. to ensure cooperation between authorities in social security matters).
- > The data transfer is necessary because of compelling and genuine interests of the organisation.