



Data Protection Imperialism and Digital Sovereignty: Transatlantic Perspectives

International Conference convened by
Federico Fabbrini, Edoardo Celeste and John Quinn
Hosted by the Law Research Centre
at Dublin City University
5th - 6th March 2020

Concept note

One of the most debated features of the General Data Protection Regulation (GDPR), the new pan-European legislation entered into force in May 2018, is its capacity to apply beyond the borders of the EU. The famous CJEU's cases *Google Spain* and *Schrems* had already prefigured this new trend in EU data protection policy. Such an extraterritorial effect along with the introduction of harsher fines have led many American companies to comply with the new provisions of the GDPR not only in relation to their European business, but on a global scale. What from a European perspective could be seen as the mere consequence of enhancing the effectivity of data protection in the EU, on the other side of the Atlantic can be read as a phenomenon of data protection imperialism. However, the factual influence of EU data protection law across the Atlantic paradoxically emerges in conjunction with an opposite trend: states' increasing quest for digital sovereignty. Exemplarily, with the adoption of the CLOUD Act in 2018, the US has resolutely affirmed its control over data processed by companies based in its own territory, independently from where those data are effectively stored.

The conference adopts the notions of data protection imperialism and digital sovereignty as conceptual lenses to examine the state of data protection and privacy law in the EU and the US. The speakers will analyse issues relating to the protection of personal data in the commercial sector, in the context of law enforcement cooperation and national security. Specific questions will include the state of development of US national privacy laws, the health conditions of the Privacy Shield, the US federal policy to enhance digital sovereignty, the law regulating data retention and access to data by national security authorities, the issue of mass surveillance, and the regulation of artificial intelligence.

Conference Programme

Venue: Grant Thornton 13-18, City Quay, Dublin Docklands, Dublin

Thursday 5th March 2020

14.30-14.45	Introduction	Prof Federico Fabbrini, Director of DCU Law Research Centre
14.45-16.15	Panel 1: The Development of the Legal Framework in the EU and the US Chair: Dr John Quinn	Edoardo Celeste and Federico Fabbrini, DCU <i>Data Protection Imperialism and Digital Sovereignty: Exploring Transatlantic Tensions</i> Prof Oreste Pollicino, Bocconi University <i>Data Protection and Freedom of Expression Beyond EU borders: EU Judicial Perspectives</i> Prof Jordan Fischer, Drexel University <i>Towards a Federal Data Privacy Law: Regaining Digital Sovereignty in the US</i>
16.15-16.45	Coffee Break	
16.45-18.00	Panel 2: The Law Enforcement Sector Chair: Prof Federico Fabbrini	Dr Maria Tzanou, Keele University <i>Mass Online Surveillance and EU Data Protection Imperialism: A Shield of Privacy?</i> Prof Steve Smith, Stanford Law School <i>The US-UK CLOUD Act Agreement and the Fourth Amendment: Constitutional Challenges</i> Dr TJ McIntyre, UCD <i>E-Evidence: Reconciling mutual recognition, sovereignty and fundamental rights in the EU</i>
18.00-18.30	Keynote speech	Mike Harris, Grant Thornton

Friday 6th March 2020

9.30-11.00	Panel 3: The Private Sector Chair: Dr Rob Brennan	Dr John Quinn, DCU <i>Google v. CNIL: Circumscribing EU Data Protection Imperialism</i> Dr Dana Burchardt, Humboldt University <i>Backlash against the Court of Justice of the EU? The Recent Jurisprudence of the German Constitutional Court on the Right to Be Forgotten</i> Dr Orla Lynskey, London School of Economics <i>Neither Sovereignty nor Imperialism? Data Transfers through the Lens of Mutual Recognition</i>
11.00-11.30	Coffee Break	
11.30-13.00	Panel 4: Transatlantic Cooperation Chair: Edoardo Celeste	Prof Paul De Hert, VUB <i>Ten Years of Voluntary Direct Cooperation Between European Law Enforcement Agencies and US Tech Firms</i> Prof Vincenzo Zeno-Zencovich, Rome 3 University <i>Transborder Data Flows after the Schrems Saga: Some Proposals for a Transatlantic Digital Cooperation</i>