EU GDPR vs UK GDPR
The Implications of Brexit for UK Data Protection Laws

Dr Asma Vranaki
Policy & Regulation Co-Lead REPHRAIN | Lecturer in Law, University of Bristol

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Agenda

UK GDPR vs EU GDPR
- What is in a prefix?

UK Data Protection Laws
- ‘Third-country’ status
- UK/US data flows
- UK /EU data flows

Adequacy Lost?
- Watch this space!
UK Data Protection Act 2018 ('DPA 2018'): Aims

- Repealed and replaced the DPA 1998
- Incorporated the EU GDPR into UK law
- Designed to facilitate finding of ‘adequacy’ post Brexit
- Legislated in GDPR derogations areas
- Deal with other matters
  - Law enforcement (Part 3)
  - National security processing (Part 4)
Brexit: EU GDPR, UK GDPR and DPA 2018

Pre-Brexit

- DPA 2018 supplemented GDPR

Post-Brexit

- Transition period arrangements – 1 January 2021
- **EU** GDPR was incorporated in UK national law under the European Union (Withdrawal) Act 2018 – UK GDPR
- So now: UK GDPR + UK DPA 2018
UK GDPR vs EU GDPR: What is in a Prefix?

**UK GDPR Development**
- UK ICO guidance, opinions, codes of conduct etc
- Judiciary in England & Wales
- The EU Charter of Fundamental Rights

**EU GDPR Development**
- EU data protection authorities' guidance, opinions, codes of conducts etc
- Guidance from other regulatory actors at EU level including the [European Data Protection Board](https://edpb.europa.eu) and the [European Data Protection Supervisor](https://www.edps.europa.eu)
- Judicial decisions at MS and CJEU level
UK / EU Data Flows


• **BUT** UK government data protection law reform proposals may impact on continued adequacy!!!!
UK /US Data Export

• Pre-Brexit
  • Safe Harbour Agreement (declared invalid by CJEU 2015 decision in Maximillian Schrems v Data Protection Commissioner).
  • Privacy Shield (declared invalid by CJEU 2020 decision in Data Protection Commissioner v Facebook Ireland and Maximillian Schrems)

• Post-Brexit
  • E.g. Art. 46, UK GDPR - ‘appropriate safeguards’
Get in Touch!

asma.vranaki@bristol.ac.uk