

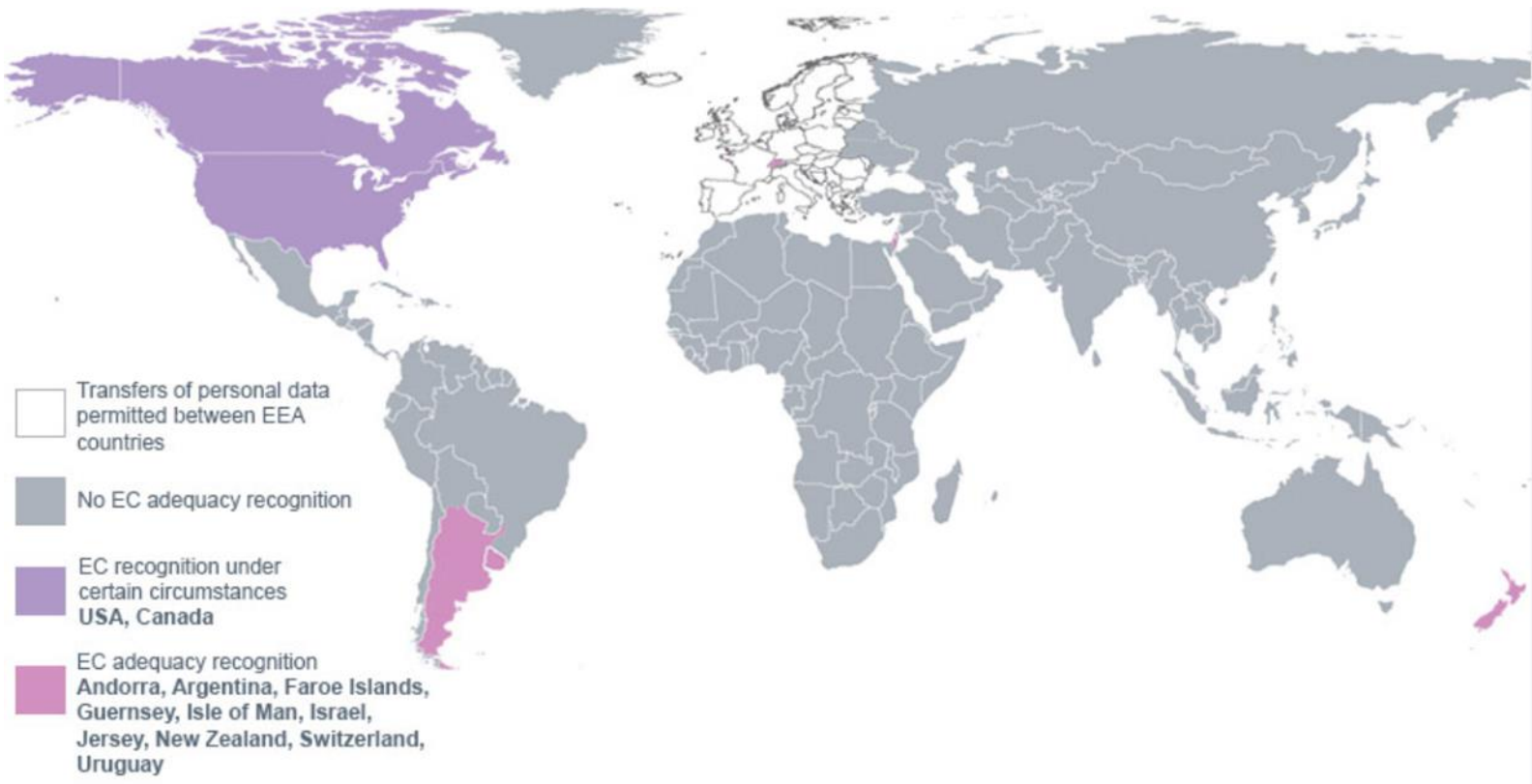


Extraterritorial Reach of GDPR – what are the practical impacts on countries outside the EU?

IBA 8th World Women Lawyers' Conference: From Courtroom to Boardroom: The Impact of Women

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Countries with Appropriate Data Protection Level



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Practical Impacts I

- General first reaction: resistance. Why should EU law apply to and be implemented in non-EU countries?
- However countries with **adequate data protection** level today will most likely amend their current law in order to further count on the adequacy decision of the EU.
- E.g. Switzerland is doing so by revising its current law by 2019. 70%-80% of the GDPR will be adopted in the new Swiss Data Protection Law (“Swiss DPA”).
- Since cross-border exchange between Switzerland and EU is intensive, most Swiss companies are subject to the GDPR. This raises many practical questions.
- **Circumvention** of GDPR – is it possible and worth the efforts?
 - No use of language of a member state
 - No use of currency of a member state
 - No mentioning of customers of a member state
 - No target advertising to consumers in a member state and no use of cookies
 - Abolishing of all data from EU consumers/citizens on the entity’s servers

Practical Impacts II

- **Coexistence** of Swiss DPA and GDPR
 - Swiss data subjects vs. EU data subjects: must controller apply different processing rules and rights to Swiss and EU data subjects?
 - Which supervisory authority is competent, if Swiss DPA and GDPR apply?
 - What about the “ne bis in idem”- principle if sanctions are imposed both under Swiss DPA and GDPR?
 - Do the references in the GDPR to the law of the member states apply to Swiss controllers?
- Coexistence of GDPR and **international agreements**
 - GDPR does not affect the validity of existing international agreements that have already been concluded prior to GDPR
 - E.g. Mutual Legal Assistance Treaty ("MLAT") still applies
- **Enforcement** of GDPR sanctions and fines on Swiss territory
 - Credibility of GDPR at stake if no enforcement possible outside EU
 - Role of representative?
 - Blocking Statutes
 - Cooperation agreements between DPAs?

Thank you for your attention!

Your contact



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