

Before We Get Started

- Use the control panel on the side to choose your **Audio Option**
- Use the **Questions pane** to send questions to organizers
 - Time to answer questions at the end
- Recording will be available for future viewing
- Materials are available for download on klaskolaw.com



How to Address Cross-Border Data Governance and its Impact on Immigration in the GDPR Era

Michele Madera, Klasko Immigration Law Partners

Jordan Fischer, XPAN Law Group

September 19, 2019





Michele Madera
Partner

Michele Madera is a Partner with Klasko Immigration Law Partners. She focuses her practice on providing strategic immigration guidance to a broad spectrum of corporate and institutional clients. She counsels them in attracting and retaining top international talent.

Michele regularly guides corporate clients through the steps of hiring a foreign worker and obtaining work authorization in the U.S., as well as throughout the permanent residence process.

She analyzes filing and adjudication trends to better align her clients' filing strategies for long-term success, as well as to forecast the growth and trends of their global workforce. This has helped companies experiencing an immigration boom to strategically manage their hiring practices, plan and forecast their departmental budgets, and determine how to operationally manage their changing workforce.

Michele's clients know they can count on her critical thinking, ease with data, and deep understanding of the operational side of their business to develop immigration protocols to ensure streamlined and efficient immigration processes.

She has in-depth expertise in guiding clients through the labor certification process, including planning, performing the labor market test, and responding to audit requests by the Department of Labor. She also has managed internal and ICE I-9 audits, as well as worksite compliance efforts, including assisting employers in testing and troubleshooting I-9 and onboarding software.



Jordan L. Fischer is co-founder and managing partner of XPAN Law Group, LLC, a certified Women's Business Enterprise ("WBE") and Women Owned Small Business ("WOSB") boutique law firm. She focuses her practice on international data privacy and cybersecurity and cross-border data management, with a special emphasis in European Union data privacy regulations and the General Data Protection Regulation (GDPR). Jordan has extensive experience in the intersection of law and technology.

Jordan regularly evaluates and assesses legal and business opportunities and risk to provide public and private sector clients with critical data privacy and cybersecurity assessments and strategy. With a global perspective, Jordan works with clients to create cost-effective and business-oriented approaches to cybersecurity and data privacy compliance. Jordan also counsels clients on cross-border data management, including the complexities of discovery in international litigation.

In addition to being a principal member of XPAN Law Group, Jordan is a Teaching Professor of Law at the Thomas R. Kline School of Law, where she brings an interdisciplinary approach to her teaching, exploring the convergence of the law and technology, researching the practical implications of regional data protection regulations within a backdrop of the global economy. Jordan currently serves as the Vice-Chair for the Pennsylvania Bar Association's Cybersecurity and Data Privacy Committee and is a board member of Women Owned Law, an organization that supports women entrepreneurs in the law and a board of trustee member of West Chester Friend's School.

Jordan is a Certified Information Privacy Professional/Europe (CIPP/E) and a Certified Information Privacy Manager (CIPM).



Jordan Fischer
Managing Partner

International Regulations



International Regulations



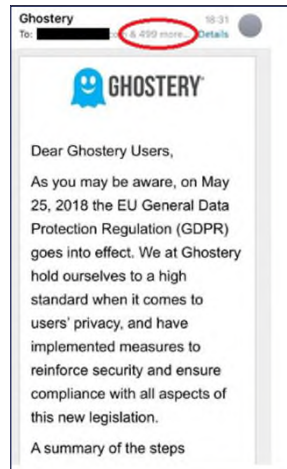
International Regulations



What happened on May 25th?



What happened on May 25th?



GDPR Scope (Art. 1)

Applies to the "processing" and free movement of "personal data" of a "natural person" within the EU

GDPR Scope (Art. 1)

Applies to the “processing” and free movement of “personal data” of a “natural person” within the EU



GDPR Scope (Art. 1)

Applies to the “processing” and free movement of “personal data” of a “natural person” within the EU



Key Roles

- Controller
- Joint Controller
- Processor
- Sub-processor



Extraterritorial Impact

The GDPR applies both within the EU as well as outside of it. Art. 3.

- First, it “applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.”
- Second, for a controller or processor not established in the EU, the GDPR applies where the processing activities are related to:
 1. the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
 2. the monitoring of their behaviour as far as their behaviour takes place within the Union.

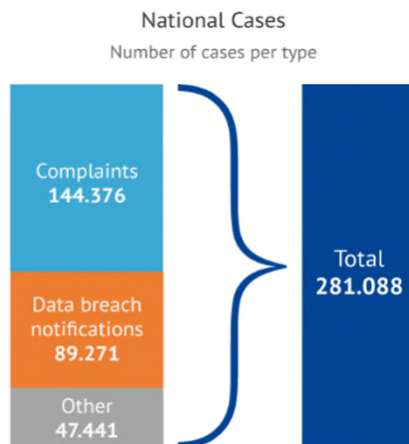


GDPR Penalties (Art. 83)

- **Maximum Penalty:**
 - 4% of global revenue or 20 million euros, whichever is higher
- **Private Right of Action**



Sanctions & Complaints



Based on information provided by SAs from 27 EEA countries

Germany: Based on information provided by The Federal and 17 Regional SAs



Sanctions & Complaints

The CNIL's restricted committee imposes a financial penalty of 50 Million euros against GOOGLE LLC

Covert data-scraping on watch as EU DPA lays down 'radical' GDPR red-line

GDPR fines total €56M in first year as Facebook faces 11 investigations

Ben Lovejoy - May, 28th 2019 4:23 am PT [@benlovejoy](#)



Understanding the Matrix



Concerns for Employers with Foreign Nationals

- Transfer of Data from the EU to non-EU countries
 - Identify the data
 - Map how the data moves through your company and through vendors
 - Global Mobility
 - Immigration Service Providers
 - Relocation Specialists
- Personal Data for Employees subject to GDPR
 - Internal compliance
 - Vendor compliance



Hypothetical 1

- A U.S. employer that is only doing business in the United States hires a graduate from a local university. The graduate is a citizen of Germany. What are the compliance requirements for the employer?



Hypothetical 2

- A multinational company is transferring a French citizen from their Paris office to their U.S. office. The company uses a vendor for relocation and travel that will require passport and biographical information to coordinate reservations and housing, as well as an immigration law firm to ensure employment authorization in the United States.
- What does the company need to consider as the personal data moves through these groups?



Hypothetical 3

- A company with offices in the U.S. and Vietnam has hired a British citizen to work in their U.S. office.
- What is their responsibility to ensure compliance?





Questions?



For Further Information



Jordan Fischer
jfischer@xpanlawgroup.com



Michele Madera
mmadera@klaskolaw.com



To Receive SHRM credit

- Email Kristin Dohan at kdohan@klaskolaw.com
- Certificates will be sent starting MONDAY 9/23

Stay Connected!

 www.klaskolaw.com

 www.xpanlawgroup.com

 @klaskolaw

 @XpanLaw

 @klaskoimmigrationlaw

 @XpanLaw

 Klasko Immigration Law Partners, LLP  XPAN Law Group, LLC





Disclaimer/Copyright

The materials contained in this PowerPoint do not constitute direct legal advice and is for informational purposes only. An attorney-client relationship is not presumed or intended by receipt or review of this presentation. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

Copyright © 2019 Klasko Immigration Law Partners, LLP.
All rights reserved.

