

Legal Seminar 2019

EU LAW AND UNDOCUMENTED MIGRANTS

Data Protection, Immigration Enforcement and Fundamental Rights

Venue: White & Case LLC

Rue de la Loi 62, 1040 Brussels, Belgium

Date: 14 – 15 November 2019

This seminar looks at the impact of measures at the EU and national levels to enhance immigration enforcement and to advance border security through the gathering and repurposing of personal data. It will examine two separate but related dimensions of this issue:

- The processing of personal data obtained through the use of services, such as health care, by the security sector (law enforcement, immigration authorities) for immigration enforcement purposes;
- Efforts at the EU level to extend and improve the interoperability of existing immigration data systems for the purpose of immigration enforcement.

Gathering together experts from across Europe, we will look at the implications of these trends for fundamental rights, including the right to privacy and the protection of personal data as guaranteed in the EU Charter of Fundamental Rights, the European Convention on Human Rights, the EU General Data Protection Regulation and the Law Enforcement Directive. We will also consider what these trends reveal in terms of the criminalisation of migration and discuss their impact in practical terms. The aims of the seminar are to:

- (a) Improve understanding of these trends and their implications among legal professionals and advocates of migrants' rights and of digital rights;
- (b) Explore strategies to mitigate their negative impact, such as through challenging existing laws at the national and EU levels.

AGENDA

DAY ONE

PART I: MERGING THE IMMIGRATION ENFORCEMENT AND SECURITY AGENDAS - TRENDS AND IMPLICATIONS FOR FUNDAMENTAL RIGHTS

- *What are the global trends in terms of the criminalisation of irregular migration?*
- *What is the role of security sector actors in immigration enforcement, and how is cooperation enhanced through increased sharing of personal data?*
- *What are the fundamental rights implications of these developments?*

16:30	Registration
17:00	Welcome <ul style="list-style-type: none">○ <i>Assimakis Komninos, Partner, White & Case LLP</i>○ <i>Michele LeVoy, Director, PICUM</i>
17:15	Keynote Presentation <i>McKenzie Funk, Journalist, Author</i>
17:30	<u>Moderator:</u> Sergio Carrera, Senior Research Fellow, Head of the Justice and Home Affairs Unit, Centre for European Policy Studies Panel Discussion: Surveillance, Law Enforcement and Immigration: Trends in the Age of Big Data <ul style="list-style-type: none">○ <i>Juliet Stumpf, Robert E. Jones Professor of Advocacy and Ethics, Lewis & Clark Law School</i>○ <i>Tony Bunyan, Director, Statewatch</i>○ <i>Ann-Charlotte Nygård, Head of Unit, EU Agency for Fundamental Rights</i>○ <i>Fausto José Mreira Pinto de Matos, Assistant to MEP Paulo Rangel (EPP)</i>
19:00	Closing <i>Yves Pascouau, Director, European Migration Law</i>
19:15	Reception

DAY TWO

PART II: REPURPOSING PERSONAL DATA FOR IMMIGRATION ENFORCEMENT

- *How has the processing of personal data been used to augment immigration enforcement priorities at the EU and national level?*
- *What are the relevant EU legal standards governing the sharing of personal data for immigration enforcement purposes, in these contexts?*

9:00	Registration
9:30 – 10:30	<p>Opening</p> <p><u>Moderator</u>: Michele LeVoy, PICUM Director</p> <p>National Trends in Processing Personal Data to Support Immigration Enforcement</p> <ul style="list-style-type: none">○ GERMANY: Para. 87 of Residence Act and access to health care <i>Michael Knipper, Reader, History, Anthropology of Medicine and Global Health, University Justus Liebig</i>○ UNITED KINGDOM: Data sharing measures and the “hostile environment” <i>Lara ten Caten, Lawyer, Liberty</i>○ SWEDEN: Access to welfare for undocumented children and youth in the context of data sharing between social services and border police <i>Hanna Scott, Doctoral Student, Linköping University</i>
10:30	BREAK
10:45 – 12:00	<p><u>Moderator</u>: Alyna Smith, Advocacy Officer, PICUM</p> <p>European Trends in the Enhanced Use of Data Processing to Support immigration Enforcement</p> <ul style="list-style-type: none">○ The role of personal data in EU migration and asylum policies: overview of existing systems, interoperability <i>Chris Jones, Researcher, Statewatch</i>

	<ul style="list-style-type: none"> ○ Re-purposing of personal data collected for immigration for law enforcement <i>Teresa Quintel, PhD Candidate, University of Luxembourg</i> ○ Case Study: Secondary movements, Eurodac and biometric data <i>Marco Stefan, Research Fellow, CEPS</i> <i>Roberto Cortinovis, Researcher, CEPS</i>
12:00 – 13:00	<p><u>Moderator:</u> Jan-Frederik Keustermans, Cleary Gottlieb</p> <p>Legal Standards in Europe</p> <ul style="list-style-type: none"> ○ EU General Data Protection Regulation (GDPR) and EU Law Enforcement Directive <i>Juraj Sajfert, Scientific Researcher, Vrije Universiteit Brussel</i> ○ Further Implications for Fundamental Rights <i>Sara Sighinolfi, Programme Officer, EU Agency for Fundamental Rights</i>
13:00	LUNCH

PART III: STRATEGIES FOR SAFEGUARDING FUNDAMENTAL RIGHTS

- *What strategies are being used to ensure that measures taken to process personal and non-personal data for immigration enforcement purposes do not encroach on fundamental rights? What lessons can we learn from their experiences?*
- *Where do we go next?*

14:00 – 15:00	<p><u>Moderator:</u> Adam Weiss, Managing Director, European Roma Rights Centre</p> <p>Accountability Measures for National Legislation & Practice</p> <ul style="list-style-type: none"> ○ <i>Ksenija Turkovic, Judge, European Court of Human Rights</i> ○ <i>Emilie Seruga-Cau, Head of Public Affairs Department, Commission nationale de l'informatique et des libertés (France)</i> ○ <i>Eline Kindt, Policy Officer, Liga voor Mensenrechten</i>
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PARALLEL WORKING SESSIONS

	<p><i>These sessions provide an opportunity for in-depth discussion among participants, with the presentation of a national case study to catalyse dialogue and debate about concrete strategies to ensure protection of personal data and other fundamental rights for migrants.</i></p>			
15:00 – 16:15	<p>National Case Study – UK</p> <p>Challenge to UK Data Protection Act “immigration exemption”</p> <p><u>Presentation:</u> Matthew Rice, Open Rights Group</p> <p><u>Facilitator:</u> Adam Weiss, ERRC</p> <p><u>Language:</u> English <u>Room:</u> Brel/Magritte</p>	<p>National Case Study – France</p> <p>Using data protection rights to support legal advocacy in Dublin procedures</p> <p><u>Presentation:</u> Emmanuelle Néraudau, Avocate, Barreau de Nantes</p> <p><u>Facilitator:</u> Yves Pascouau, Director, European Migration Law</p> <p><u>Language:</u> English/French <u>Room:</u> Fabre/Panamarenko</p>	<p>EU Advocacy: Common European Asylum System</p> <p>EC proposals to expand use of personal data in EURODAC, VIS</p> <p><u>Presentation:</u> Maria Giovanna Manieri, Adviser on Civil Liberties, Justice & Home Affairs to the Greens/EFA</p> <p><u>Facilitator:</u> Catherine Woollard, ECRE</p> <p><u>Language:</u> English <u>Room:</u> Boardroom</p>	<p>Case Study</p> <p>Use of personal data collected for immigration purposes for law enforcement</p> <p><u>Presentation:</u> Teresa Quintel, University of Luxembourg</p> <p><u>Facilitator:</u> Juraj Sajfert, Scientific Researcher, Vrije Universiteit Brussel</p> <p><u>Language:</u> English <u>Room:</u> Delvaux</p>
16:15 – 17:00	<p>CLOSING PANEL</p> <p><u>Moderator:</u> Michele LeVoy, Director, PICUM</p> <ul style="list-style-type: none"> ○ Adam Weiss, European Roma Rights Centre ○ Yves Pascouau, Director, European Migration Law ○ Catherine Woollard, Secretary General, European Council on Refugees and Exiles (ECRE) ○ Juraj Sajfert, Scientific Researcher, Vrije Universiteit Brussel 			
17:00	<p>End of seminar.</p>			