

Legal framework for transborder data flows needs improvement

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The benefits of transborder data flows on the Internet are being underestimated. We need a more coherent system for the transfer of personal data across national borders, argues Christopher Kuner. He calls on governments and others to come to terms with the fact that a regulatory system offering good rather than total protection in most cases is the best that can be achieved. Kuner will defend his PhD thesis on Wednesday January 30th at Tilburg University.

Transborder flows of [personal data](#), particularly online, have become an indispensable part of modern life. With it we are witnessing two contradictory phenomena, namely an ever-increasing [globalization](#) of the economy and of society, together with a growth in regulation and restriction of the means necessary to realize them. Such tensions are not easily resolved, since they reflect fundamental differences in the conceptions of data protection and privacy in different cultures, as well as the fact that there is currently no international hierarchy of actors, norms, and institutions to resolve them. Having studied data protection and privacy regulation of over 70 countries and international organizations worldwide, Christopher Kuner concludes that an overarching international consensus on these questions is unlikely any time soon. However, steps could be taken to deal with the conflicts caused by the current plurality of legal rules.

The assumption that the transfer of personal data across borders is inherently risky leads to an undervaluation of the benefits of data flows, which are central to many important [fundamental rights](#), [economic](#)

[benefits](#), and social values. According to Kuner, the emphasis should be not only on protecting against the risks, but also on maximizing the benefits of transborder data flows. Regulation has so far focused too much on securing application of local standards to personal data transferred outside national borders, while neglecting policies that are in the interest of the international community. States, individuals, and regulators will have to come to terms with the fact that a [regulatory system](#) offering a good level of protection in most cases is probably the best that can be achieved in a fragmented world.

The thesis will be published in 2013 by Oxford University Press under the title "Transborder Data Flows and Data Privacy Law."

Provided by Tilburg University

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