



REVUE DE L'UNION EUROPÉENNE



N° 641

Septembre 2020

Deal !

Florence Chaltiel

Entretien avec Dominique Riquet – Député européen

par Florence Chaltiel

Protection des données à caractère personnel des migrants

Loïc Grard

Maxime Kheloufi

Camille Dire

Camille Gendrot

Yoann Nabat

Lisanne Chamberland-Poulin

Émilie Destombes

Emmanuelle Cornuz Rigaud

Catherine Gauthier

Le Brexit – Les « rendez-vous du politique » de la BNF
du 16 février 2019

Les anticorps de l'Union européenne
face au virus de la désintégration européenne

Roberto Angrisani

Le programme « Science avec et pour la société »
de l'Union européenne (2014-2020)

Fabrice Andreone



DALLOZ

REVUE DE L'UNION EUROPÉENNE



N° 641

Septembre 2020

Éditorial

465 Deal !

par Florence Chaltiel

Entretiens

468 Dominique Riquet – Député européen

par Florence Chaltiel

Protection des données à caractère personnel des migrants

470 Protection des données personnelles des migrants et fermeture des frontières de l'Union européenne – Propos introductifs

par Loïc Grard

471 Le droit à la protection des données à caractère personnel face au défi migratoire

par Maxime Kheloufi

475 Le concept de « gestion intégrée des frontières »

par Camille Dire

479 Protection et collecte des données personnelles des personnes migrantes dans le processus d'externalisation des frontières de l'Union européenne en Afrique de l'Ouest

par Camille Gendrot

485 Les migrants confrontés aux fichiers judiciaires et pénaux

par Yoann Nabat

489 La collecte des données à caractère personnel des migrants : le point de vue d'un avocat

par Lisanne Chamberland-Poulin

493 L'identification numérique des ressortissants d'États tiers : de la multiplication des bases de données à leur interopérabilité

par Émilie Destombes

497 Les implications de l'interopérabilité au regard des droits fondamentaux – La modification d'Eurodac dans le processus d'interopérabilité

par Emmanuelle Cornuz Rigaud

501 Propos conclusifs

par Catherine Gauthier

Les Entretiens de la BNF

504 Le Brexit – Les « rendez-vous du politique » de la BNF du 16 février 2019

Instruments monétaires

517 Les anticorps de l'Union européenne face au virus de la désintégration européenne

par Roberto Angrisani

Programmes européens

525 Le programme « Science avec et pour la société » de l'Union européenne (2014-2020)

par Fabrice Andreone

THE RIGHT TO PERSONAL DATA PROTECTION VERSUS THE MIGRATORY CHALLENGE

by Maxime Kheloufi

p. 471

Though the right to personal data protection is now viewed as a fundamental right by the European Union, it is not for all that an absolute right. It needs to be adjusted to the pursuit of other general interest goals of the Union, such as public security and the fight against the illegal crossing of external borders. In order to ensure controls, the European law maker has increased the number of files, which constitute all breaches of the right to data protection. The aim is to analyse to what extent the implementation of these files can be justified and what is the impact on the right to the protection of personal data of people in a migratory situation.

THE CONCEPT OF "INTEGRATED BORDER MANAGEMENT"

by Camille Dire

p. 475

In order to understand the multiplicity of legal and illegal migratory movements, towards the European territory, the Treaties reaffirmed the need to set up place a policy of "integrated border management". Border control is thus seen as a process, at the end of which the effective crossing of the border constitutes one of the stages. For its implementation, the European Union (EU) has developed tools, taking the form of databases used at the various stages of the journey, ensuring their compatibility with the most basic rights of incoming travellers, and whose interoperability is the result of this "integrated" management.

PROTECTION AND COLLECTION OF PERSONAL DATA OF MIGRANTS IN THE PROCESS OF BORDER EXTERNALIZATION OF THE EUROPEAN UNION IN WEST AFRICA

by Camille Gendrot

p. 479

Since the 1990s, the European Union has been developing a policy to control migration beyond its borders in order to prevent the arrival of migrants on its territory. After the fall of Mr. Gaddafi and the deterioration of the situation in Libya, the EU loses its usual contact and turns more towards the Sahel countries, strengthening its relations with the West African States. Within this control policy, the collection of biometric data of people in migration is quickly seen as a preferred tool in order to prevent departures and improve the speed of deportation and policies of to their country of origin of people illegal situation in the European territory.

MIGRANTS CONFRONTED WITH JUDICIAL AND CRIMINAL FILES

by Yoann Nabat

p. 485

While the processing of personal data appears essential to the administrative management, particularly in Europe, of population movements, the uses made of files that are for administrative purposes firstly, and for police or judicial purposes secondly, facing migrants, show a generalized confusion of purposes in the name of efficiency, a massive development of the use of biometrics and an ever weaker control of the real use of data, to the detriment of a real protection of the informational self-determination of migrants.

COLLECTING MIGRANTS' PERSONAL DATA : A LAWYER'S PERSPECTIVE

by Lisanne Chamberland-Poulin

p. 489

The collection of the personal data of migrants is a subject requiring several theoretical contributions. It nevertheless seemed relevant to add to this theoretical and prospective reflection the point of view of a professional working with migrants whose data are collected. This is the purpose of this contribution : the point of partial and non exhaustive view, of a lawyer practicing in immigration law.

DIGITAL IDENTIFICATION OF THIRD-COUNTRY NATIONALS : FROM THE PROLIFERATION OF DATABASES TO THEIR INTEROPERABILITY

by Émilie Destombes

p. 493

This contribution aims to stress that identification has become a specific purpose legitimizing the multiplication of databases and their interoperability. The purpose is therefore to analyse

the evolution of identification in order to be able to measure its impact on the respect for the fundamental rights of third-country nationals.

IMPLICATIONS OF INTEROPERABILITY CONSIDERING FUNDAMENTAL RIGHTS - THE MODIFICATION OF EURODAC IN THE INTEROPERABILITY PROCESS

by Emmanuelle Cornuz Rigaud

p. 497

The decision to make the EU's border and visa information systems interoperable raises the question of its consequences on the protection of the fundamental rights of migrants. As such, the Eurodac database constitutes a laboratory for analysing this impact. Indeed, strengthening the efficiency of European information systems through their interoperability leads to the erasure of the specificity of Eurodac, which is essential for protecting the sensitive data of asylum seekers. This database, initially intended exclusively for the implementation of the Dublin accountability mechanism, has gradually been disconnected from asylum policy in order to strengthen its legitimacy and participate in an efficient management of the external borders. However, this transformation process calls into question Eurodac's respect for the principles of the purpose and proportionality of the measures, which apply when processing personal data, and consolidates the figure of the criminal asylum seeker.

CONCLUDING REMARKS

by Catherine Gauthier

p. 501

The subject tackled by the study day entitled "The protection of the personal data of migrants in the face of the closing of the external borders of the European Union" gave rise to rich, dense and contrasting thoughts. The new information systems put in place in the field of police and judicial cooperation, of asylum and immigration, while meeting a comprehensible objective of efficiency and security, nevertheless call for vigilance. They were in fact designed on the basis of a dubious amalgamation between migration and crime and develop a conception of a two-tiered right to the protection of personal data, with migrants benefiting little or no from these rights.

BREXIT - THE BNF'S "POLITICAL MEETINGS" OF FEBRUARY 16, 2019

p. 504

The National Library of France has organized several lectures on the European Union, entitled "Les Rendez-vous du politique", which we have decided to publish a few months after they were held in order to give them increased exposure. The debate gathered Mr. Hubert Védrine, former Minister of Foreign Affairs of France, Ms. Cécile Ducourtieux, correspondent for the newspaper Le Monde in Brussels, Ms. Florence Faucher, professor at Sciences Po Paris, and Mr. Keith Dixon, political scientist and specialist of the United Kingdom. At the time, although the principle of United Kingdom's exit from the European Union had been decided, negotiations were still under way. Several difficult points of debate between the twenty-seven members States of the European Union and the United Kingdom remained alive. The Brexit is now effective, even though many points of the exit agreement remain to be settled - the negotiator, Michel Barnier is still, in 2020, in his role of helping the protagonists find a compromise acceptable to everyone.

THE ANTIBODIES OF THE EUROPEAN UNION VERSUS THE VIRUS OF EUROPEAN DISINTEGRATION

by Roberto Angrisani

p. 517

Since the origins of its construction, the hesitation of the European Union institutions regarding the adoption of measures deemed necessary to deal with moments of crisis has made more noise than its silent action. For most EU citizens, understanding the scope of the measures put in place in the economy is a quite complex challenge. This article presents the monetary and financial policy instruments at the centre of the contemporary debate, which the EU can use to tackle a virus that hit long before the outbreak of the Covid-19 pandemic : European disintegration. Advanced technical solutions, though ambitious, will nevertheless only be able to produce considerable effects if the political response is of the same scale.

THE SCIENCE PROGRAM WITH AND FOR THE EUROPEAN UNION SOCIETY (2014-2020)

by Fabrice Andreone

p. 525

With the Covid and the news related to the pandemic, the relationship between science, society and citizens has become of paramount importance. This paper offers a presentation of the European Union's research program today known as "Science avec et pour la société" (hereinafter Science with and for Society or SwaFS, according to the English acronym), in the context of the European research framework program (PCRD).