

# “The Effects of Data Localization on Cybersecurity”

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## **Methodology for Research on EDPB Comments**

The EDPB received 195 comments for “Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data.”<sup>1</sup> For the research related to this paper, each of these comments was reviewed to determine if it discussed data localization or a similar concept.

One author, DeBrae Kennedy-Mayo, personally reviewed approximately 175 of the 195 comments submitted to the EDPB. Our colleague Michael Young initially reviewed the roughly 20 comments submitted by entities in the financial sector. (We note that Kennedy-Mayo’s review of approximately 5 comments was simply to note that the document was submitted in a language other than English. The details of those comments are beyond the resources of our project.)

A standard process was followed for the review of each comment that was submitted to the EDPB. First, the reviewer began by running searches for the terms “data localization” and “data localisation” as well as “localization” and “localisation.” The search was then expanded to similar concepts such as return EU commerce and society to a “pre-internet era,” transform the EU into a “digital island,” and “balkanize global data flows.” Prior to inclusion in our research as a comment discussing data localization or a similar concept, the reviewer analyzed the context of the language to ensure relevance. Next, the reviewer visually scanned the comment for language or topics that might suggest relevant content. The reviewer then closely read any text with potentially relevant material. (Additionally, the team conducted a similar review to determine if the comment discussed the potential effects on cybersecurity.)

Based on our team’s review of the EDPB comments, approximately 25% of the nearly 200 comments submitted to the EDPB expressed concern that the draft guidance would result, in practice, in data localization. Slightly more than 10% of the comments spoke explicitly to the concern that the application of the guidance would result in data localization. Nearly an additional 15% of the submissions included language describing similar concepts without using the term data localization.

As to the categorization of entities which submitted comments to the EBDP, our research adopted the categories utilized by the EDPB. The EDPB provided a category for type of entity (such as business association, business organization, or individual) as well as a category for the country associated with the entity. For numerous entities, the name of the entity provided clarity

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<sup>1</sup> Feedback, Recommendations 01/2020 on Measures that Supplement Transfer Tools to Ensure Compliance with the EU Level of Protection of Personal Data. European Data Protection Board (EDPB) (21 December 2020). [https://edpb.europa.eu/our-work-tools/documents/public-consultations/2020/recommendations-012020-measures-supplement\\_en](https://edpb.europa.eu/our-work-tools/documents/public-consultations/2020/recommendations-012020-measures-supplement_en) (2 May 2022, last accessed).

as to its focus (such as Employers of Poland). For those entities where the name of the entity did not elicit sufficient detail, our team conducted internet searches to examine the focus of those entities.

Based on our research, most of the comments related to data localization grouped into four categories: 1) tech-focused EU commenters; 2) business-focused EU commenters; 3) U.S.-related commenters; and 4) tech business commenters. Several of the comments related to data localization came from entities based in the UK. In addition, numerous individuals not representing any entity, including the authors of this paper, filed comments discussing data localization.

**Chart**  
**Comments with “Data Localization” and Similar Terms**

*Comments with Specific Term  
“Data Localization” and “Data Localisation” as well as  
“Localization” and “Localisation”*

<b>EDPB #</b>	<b>Name of Entity</b>	<b>Page #</b>	<b>Language</b>
28	Allied for Startups	1	“Digital development and globalisation should not suddenly be scaled back in the name of <b>localisation</b> .”
45	MyData-TRUST	2	“In many instances, in practice, data have practically no GDPR compliant way to leave the EEA (i.e., <b>data localisation</b> ). ...It is essential for Europe, and more particularly for the EDPB, to further study the negative consequences of <b>data localisation</b> not only on the EU market and its economy, but also on the research and innovation.”
46	Federation of European Direct and Interactive Marketing (FEDMA) – [Geraldine Proust]	1	“These recommendations will isolate the EU in terms of data transfers, trade, research and international cooperation. They send a general message of distrust and will encourage <b>data localization</b> .”
49	FiCom – [Asko Metsola]	5	“Do these use cases mean that personal data storage, maintenance and access (i.e. any and all processing) must be in EU/EEA and no supplementary measures help for those cases whatsoever (i.e. full data and related services <b>localization</b> to EU/EEA is the only option)?”
77	World Privacy Forum – [Pam Dixon]	1-6	“We note that the Recommendations appear to require <b>data localization</b> in some cases, which we find to be an objectionable requirement that is both impractical and damaging to privacy. <b>Data localization</b> will stifle the very data flows that have facilitated global coordination on COVID-19. We urge the EDPB to address COVID-19-related and similar transfers by taking a more detailed and broad analysis of the details of how these transfers take place with multiple stakeholders across multiple jurisdictions. ... These Recommendations, should they go forward, such as mandatory <b>data localization</b> , and removal of a key compliance tool, will lead to less, not more privacy.”
92	Dutch Confederation of	4	“We remain united by our vision and commitment for a strong and competitive Europe and we fear Europe

	Dutch Industries and Employers		cannot remain competitive if <b>localisation</b> of data becomes a widespread practice.”
93	German Insurance Association (GDV)	3	“The global interconnection of the European economy requires solutions which ensure the protection personal data without isolating the European Union. The free flow of data remains an important aspect for fostering innovation, prosperity and well-being of the EU. <b>Data localization</b> schemes cannot be an answer.”
97	Information Technology Industry Council (ITI)	3, 12-13	“Recognise the potential implications of data flows, adopt approaches that facilitate data transfers while protecting data, and avoid <b>data localisation</b> . ... The collective impact of the EDPB guidance may cause a meaningful reduction in personal data transfers from the EU to the rest of the world, invariably leading to an increased <b>localisation</b> of data within the EU and potentially the false characterization of <b>localisation</b> as a more reliable means of assuring compliance with EU law and guidance.”
103	BritishAmerican Business	2-3	“Finally, the practical result of these Recommendations would be a drastic increase in <b>data localization</b> in Europe. ... <b>Localization</b> requirements also increase data hosting costs by 30 to 60% and impact free speech, social mobility, and civic engagement by restricting information availability.”
107	DLA Piper	4	“The combination of a strict approach with regard to both supplementary measures and article 49 derogations leads to a de facto <b>data localization</b> requirement which is simply not supported by the GDPR or by the Schrems II ruling.”
117	Vodafone	1	“ <b>Data localisation</b> will sever European companies from the expertise and technology underlying the resilience, reliability and security of global supply chains with additional negative impacts to the global digital agenda across all European companies.”
121	MedTech Europe	11	“In practice, these restrictions seem to qualify (at least de facto) as a <b>data localization</b> requirement.”
128	Centre for Information Policy Leadership (CIPL)	1, 6-8	“The determination that only technical measures such as pseudonymisation, anonymisation or ‘bring your own key encryption’ can address the EEG gap, creates a de facto <b>localisation</b> requirement for a large category of data that have to be accessible in the clear for processing purposes.”
130	techUK	4, 9-10	“If implemented, the Recommendations will threaten the perception of the EU as open digital economy by introducing de facto <b>data localisation</b> through strict regulatory recommendations. ... With these

			Recommendations, the EU risks retaliation from other jurisdictions while also potentially incentivising further <b>data localisation</b> and restrictions on internet access in other parts of the world.”
140	American Chamber of Commerce in Poland	3	“Such a view makes it so that, implicitly, the EDPB recommendations are in fact more demanding than any <b>data localization</b> obligations, as far as no access from third party countries seems to be acceptable.”
145	TrustArc Inc	2-3, 4-5	“Given the Schrems-II decision and various statements by data protection authorities with regard to U.S. surveillance laws, this would for example mean that data flows between the EEA and the U.S. would become almost, if not completely, impossible. ... As a consequence of the strict approach taken to cloud services, a number of commentators have expressed the fear that the Board might be pushing for more <b>data localisation</b> requirements for organisations doing business in the EEA.”
155	City of London Law Society	6	“The Recommendations may therefore be read as implementing a broader <b>data localisation</b> agenda by having such onerous expectations in place. We would note that this is not the intention of the GDPR and threatens to ‘Balkanise’ global data flows.”
161	TechNet	2	“In TechNet’s assessment, the Recommendations amount to a de facto <b>data localization</b> requirement for EU personal data.”
170	Swire, Peter & Kennedy-Mayo, DeBrae	1-10	“Based on our work to date, we offer the following five areas of concern about the effects of hard <b>data localisation</b> : 1. Previous Research Shows Numerous Major Data Flows, Beyond Digital Platforms, that Would Be Affected by Hard Data Localisation. 2. Previous Research Shows Technical Obstacles to Providing Online Services in a Regime of Hard Data Localisation. 3. Strategies for Localising Data in the EU Work Less Well When Other Jurisdictions Also Require Data Localisation. 4. Seemingly Simple and Lawful International Transfers May Include Background Processing That May Not Be Consistent With Hard Data Localisation. 5. Hard Data Localisation May Create Cybersecurity, Anti-fraud, and Related Risks.”
179	European Games Developer	5	“Furthermore, they would require <b>data localisation</b> in the EU, which would make 24/7 customer support

	Federation (EGDF)		models difficult as assistance could not be anymore provided by teams based on different time zones.”
183	PrivacyRules	3-5	“Except under some exceptions, the EDPB recommendations indirectly create a <b>data localization</b> privacy framework within adequate countries.”

***Comments with Term Similar to “Data Localization”***

<b>EDPB #</b>	<b>Name of Entity</b>	<b>Page #</b>	<b>Language in Comment</b>
5	(Not provided)	1	“That means global (incl. UK) employers will have to immediately <b>stop doing business</b> in the EU and dismiss their staff until they have set-up isolated data systems and management for their EU subsidiaries – and it is unlikely that they will do so any time soon.”
11	Employers of Poland	2	“If adopted, they will force many aspects of EU commerce and society into a <b>pre-Internet era</b> , and/or <b>isolate Europe from the global economy.</b> ”
12	AMETIC	2	“If adopted, they will force many aspects of EU commerce and society into a <b>pre-Internet era</b> , and/or <b>isolate Europe from the global economy.</b> ”
15	Aellom	1	“EU companies <b>could no longer use the services of US companies</b> like Amazon, Google or Microsoft.”
25	Securities Industry & Financial Markets Association (SIFMA)	2-3, 11	“The disruption caused by a <b>sudden suspension of all cloud-based or remote-access transfers of data</b> in the clear would also have disproportionate consequences on EU businesses and individuals, as well as possible detrimental effects on the overall level of data security in the European Union.”
30	Danish Entrepreneurs	1	“Therefore, we urge the EDPB to consider the concerns raised in this feedback, and start working towards <b>enabling international data transfers rather than prohibiting them.</b> ”
37	French Insurance Federation (FFA)	1-3	“A ban on such transfers to the US would, if taken to its logical conclusion, <b>amount to a blanket ban on all transfers outside the EU</b> since there are many cases of sub-outsourcing by secondary subprocessors.”
48	National Retail Federation (NRF)	3	“Recommendations could therefore be seen as a <b>nontariff trade barrier on data flows</b> that could have the effect of prohibiting controllers operating in the EU from using processors based outside of the EU.”

50	German Banking Industry Committee	2, 4	“This approach gives the general impression that, since the CJEU judgment of 16 July 2020 at the latest, there has been a trend in data protection legislation <b>away from economic globalisation</b> despite the progressive global interconnectedness of products and services.”
63	U.S. Chamber of Commerce	2-4	“If the Recommendations are implemented and enforced as written, the EDPB will <b>effectively cut Europe off from the rest of the digital world and erect formidable barriers to cross-border trade and investment</b> , without enhancing the privacy of European citizens. ... In <b>transforming the EU into a “digital island,”</b> the Recommendations would cause significant disruptions to international commerce and to the goods, services, and research that Europeans rely on.”
67	American Chamber of Commerce in Slovenia		“... we would like to stress the importance for a transparent and competitive digital regulation, which will allow Slovenian and other EU based digital companies to <b>participate in the global digital market.</b> ”
81	Global Data Alliance	6	“Centralizing data regarding employees’ salaries, benefits, demographics, and performance is essential to creating fair and consistent employment policies across an enterprise. ... Because the GDPR generally does not permit alternative legal bases for these transfers (such as consent for instance), the implication that it may not be permissible to transfer the data of EU employees to company headquarters outside of the European Union is troubling and <b>has the potential to disrupt international commerce in a significant way.</b> ”
86	American Chamber of Commerce in Romania	3-4	“Where the EU Commission in preparing new draft SCCs has looked to find solutions to enable transfers to continue globally, the EDPB has endeavored to <b>effectively terminate transfers of personal data to the many organizations in the US</b> who are subject to the FISA 702 regime (and relying on out of date information in taking this preliminary position).”
88	TransUnion Information Group Limited	3	“Additionally, we are concerned that the recommendations will have a <b>substantial impact on cross-Atlantic data flows</b> which facilitate international trade and support the European economy more broadly. In particular, it appears to be <b>effectively impossible to carry out some types of data transfer</b> on which many businesses routinely rely.”

91	Insurance Europe	3, 4	“Furthermore, a ban on data transfers to the US would, if taken to its logical conclusion, amount to a <b>blanket ban on all transfers outside the EU</b> (as there are many cases of sub-contracting by secondary sub-processors).”
94	Confederation of Industry in the Czech Republic	5	“ <b>Risk of blocking international trade</b> - Unless the guidelines are modified they risk rendering data flows illegal and <b>blocking international free trade.</b> ”
95	NLdigital	1	“The EU should remain <b>open, free and connected to international partners.</b> ”
104	European Association of Television and Radio Sales Houses	2, 3	“In many common use cases, such as those set out above involving anodyne data, businesses will find themselves in a ‘Catch-22’ scenario - taking steps to <b>localize processing</b> of that data would be utterly disproportionate to the real risks of processing that data outside of the EEA, but strict compliance with the EDPB Recommendations would permit nothing else. ... At worst, the impact of the Recommendations would be to <b>effectively terminate digital trade between countries in the EU and many outside</b> , with all the political, economic, and socio-cultural downsides that would entail.”
105	Polish Confederation Lewiatan	1	“The Recommendations, if adopted, will force many aspects of EU commerce and society into a <b>pre-internet era</b> , and <b>isolate Europe from the global economy</b> and have potential negative effects on EU competitiveness, innovation, and society are enormous.”
110	BEVH	5	“The way the Recommendations transpose the requirements of Schrems II could lead to a <b>de-facto prohibition of use of U.S.-based telecom, cloud and other service providers</b> subject to FISA 702 ... this may therefore amount to a <b>nontariff trade barrier on data flows</b> , which only a political solution (and not the industry itself) would solve.”
112	Biogen International	4	“Aspects of EU commerce and society could be <b>forced to suspend important data flows.</b> ... For the life sciences branch specifically, we are concerned that it is critically important to the health of EU patients that pharmaceutical companies can transfer personal data to jurisdictions outside the EEA to continue with clinical research and meet our pharmacovigilance safety reporting obligations.”
124	Software & Information	3	“Unless the legal and policy outcomes relating to transatlantic data transfers forge a pragmatic,



	Industry Association (SIIA)		evolving, and risk-based process, these <b>critical trade and economic partnerships will be devastated.</b> ”
132	Association of Commercial Television in Europe (ACT)	2	“In many common use cases, such as those set out above involving anodyne data, businesses will find themselves in a ‘Catch-22’ scenario - taking steps to <b>localize processing</b> of that data would be utterly disproportionate to the real risks of processing that data outside of the EEA, but strict compliance with the EDPB Recommendations would permit nothing else. ... At worst, the impact of the Recommendations would be to <b>effectively terminate digital trade between countries in the EU and many outside</b> , with all the political, economic, and socio-cultural downsides that would entail.”
139	eco	4	“If jurisdiction and case law will follow these recommendations, <b>data transfers into third countries will be seriously impeded</b> ... Beyond that, companies with headquarters within the EEA and subsidiaries in third countries who may be required to export data in order to comply with local jurisdiction may suffer a <b>de facto interdiction of conducting business.</b> ”
143	Internet Association	1-3	IA submits these comments in response to the EDPB’s Recommendations that would <b>negatively impact the free flow of data</b> without providing meaningful privacy protections to EU consumers. ... <b>Limiting personal data transfer between the EU and other countries</b> will drastically change the EU economy and society.”
146	Immuta – [Sophie Stalla-Bourdillon & Alfred Rossi]	8-9	“Until a new adequacy decision targeting the US is issued by the EC, this means that data controllers should rely upon <b>localization-based access</b> control and make sure only data analysts located in the EU have access to EU data each time dynamic anonymization does not fit their use case’s requirements.”
158	DIGITALEUROPE	4-6	“... the draft Recommendations <b>render controller to-controller and processor-to-controller transfers completely impossible.</b> ... The draft Recommendations would <b>force all these companies to stop their data transfers to non-adequate countries</b> , with repercussions on their business that would be dire.”
169	noyb.eu	2-4	“The European Legislator has de facto established an export ban for personal data – with various exceptions to that default rule. Obviously this position may be

			criticized and is largely ignored in relation to certain third countries, but is nevertheless the current state of the law. ... <b>The suspension or termination of the transfer in the absence of essentially equivalent level of protection is not an option but the default obligation.</b> ”
178	Association of Consumer Credit Information Suppliers	1-2	“In particular, it appears to be <b>effectively impossible to carry out some types of data transfer</b> on which many businesses routinely rely. ... The recommendations as they stand will therefore have a <b>substantial negative impact on cross-Atlantic data flows</b> , which facilitate international trade and support the European economy more broadly.”

**Chart**  
**Comments Discussing “Data Localization” or Similar Concept**  
**in Alphabetical Order**

*With Entity Type and Nationality*

<b>Name of Entity</b>	<b>EDPB #</b>	<b>Entity Type</b>	<b>Nationality</b>	<b>Member State</b>
Aellom	15	DPO/Professional Association	EU	Netherlands
Allied for Startups	28	Non-Government Organization (NGO)	EU	Belgium
American Chamber of Commerce in Poland	140	Business Association	EU	Poland
American Chamber of Commerce in Romania	86	Non-Government Organization (NGO)	EU	Romania
American Chamber of Commerce in Slovenia	67	DPO/Professional Association	EU	Slovenia
AMETIC	12	Business Association - Digital Companies	EU	Spain
Association of Commercial Television in Europe (ACT)	132	Business Organization	EU	Belgium
Association of Consumer Credit Information Suppliers	178	Business Association	EU	Belgium
BEVH	110	Business Association	EU	Germany
Biogen International	112	Business Association	EEA	Switzerland
BritishAmerican Business	103	Business Association	UK	
Centre for Information Policy Leadership (CIPL)	128	Academic Institution	EU	Belgium
City of London Law Society	155	DPO/Professional Association	UK	
Confederation of Industry in the Czech Republic	94	Business Association	UK	Czech Republic
Danish Entrepreneurs	30	Business Association	EU	Denmark
DIGITALEUROPE	158	Business Association	EU	Belgium
DLA Piper	107	Business Organization	EU	Belgium

Dutch Confederation of Dutch Industries and Employers	92	Business Association	EU	Netherlands
eco	139	Business Association	EU	Germany
Employers of Poland	11	Business Association	EU	Poland
European Association of Television and Radio Sales Houses	104	Business Association	EU	Belgium
European Games Developer Federation (EGDF)	179	Business Association	EU	Sweden
Federation of European Direct and Interactive Marketing (FEDMA) – [Geraldine Proust]	46	Business Association	EU	Belgium
FiCom – [Asko Metsola]	49	Business Association	EU	Belgium
French Insurance Federation (FFA)	37	Business Association	EU	France
German Banking Industry Committee	50	Business Association	EU	Germany
German Insurance Association (GDV)	93	Business Association	EU	Germany
Global Data Alliance	81	Business Association	EU	Belgium
Immuta – [Sophie Stalla- Bourdillon & Alfred Rossi]	146	Business Organization	UK	
Information Technology Industry Council (ITI)	97	Business Association	EU	Belgium
Internet Association	143	Business Association	US	
Insurance Europe	91	Business Association	EU	Belgium
MedTech Europe	121	Business Association	EU	Belgium
MyData-TRUST	45	Business Organization	EU	Belgium
National Retail Federation (NRF)	48	Business Association	US	
NLdigital	95	Business Association	EU	Netherlands
noyb.eu	169	Non-Government Organization (NGO)	EU	Austria

Polish Confederation Lewiatan	105	Business Organization	EU	Poland
PrivacyRules	183	Business Organization	US	
Securities Industry & Financial Markets Association (SIFMA)	25	Business Association	US	
Software & Information Industry Association (SIIA)	124	Business Association	US	
Swire, Peter & Kennedy-Mayo, DeBrae	170	Individual	US	
TechNet	161	Business Association	US	
techUK	130	Business Association	UK	
TransUnion Information Group Limited	88	Company/Business Organization	UK	
TrustArc Inc	145	Business Organization	EU	Netherlands
U.S. Chamber of Commerce	63	Business Association	US	
Vodafone	117	Business Organization	UK	
World Privacy Forum – [Pam Dixon]	77	Non-Government Organization (NGO)	US	
(Not provided)	5	Individual	EU	Germany