

David Levitt Authors Article on the GDPR's Reach

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Hinshaw's David Levitt—a partner in the firm's Chicago office—authored an article titled “GDPR and the Uniform Foreign Country Money Judgments Recognition Act.” Published in DRI's *In-House Defense Quarterly*, the article discusses whether, and how likely, an American company with no assets or facilities in the European Union (EU) is to be subject to penalties under the General Data Protection Regulation (GDPR).

In the article, Levitt posits that provisions in the Uniform Foreign Country Money Judgments Recognition Act (UFCMJRA) may provide effective defenses against enforcement in the United States of any European court judgment finding that the company violated the GDPR. However, he adds, the UFCMJRA may not provide ironclad cover. A company may inadvertently waive its protections if it agrees to certain standard contract terms that waive personal jurisdiction defenses.

As Levitt explains in the article, “Both standard contractual clauses and binding corporate rules include provisions that expressly allow data subjects to enforce the GDPR against data exporters. They include provisions by which the data exporter agrees that person who suffer damages are ‘entitled to receive compensation form the data exporter.’ And the data exporter agrees to the jurisdiction of a tribunal where the data exporter ‘is established,’ governed by the laws of the Member State.” Levitt suggests that American companies with no assets or facilities in the EU should closely review any contract they receive that includes GDPR-related standard provisions. Where any provision, such as Standard Contractual Clauses, could result in the company waiving personal jurisdiction-related or other protections under the UFCMJRA, the company should be wary of that contract, and seek alternative means of addressing digital privacy concerns.

[Read the full article](#) (PDF)

“GDPR and the Uniform Foreign Country Money Judgments Recognition Act,” was published in the Summer 2020 issue of DRI's *In-House Defense Quarterly*.

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