

AIIFL&HKCML Joint Event:

Cross-border Data Transfer: Key Takeaways from the European Commission's Adequacy Decision for Korea (2021) and the Data Privacy Framework for the U.S. (2023)

On September 23, 2024, Judge KIM Min Kyung of South Korea convened a conference entitled “Cross-border Data Transfer: Key Takeaways from the European Commission’s Adequacy Decision for Korea (2021) and the Data Privacy Framework for the U.S. (2023).” Judge KIM critically examined the European Commission’s adequacy decisions concerning both South Korea and the United States, comparing their respective data protection frameworks and addressing the legal challenges that arise in cross-border data transfers within the evolving digital landscape.

An adequacy decision serves as a pivotal mechanism for facilitating cross-border data transfers, establishing whether a foreign jurisdiction provides an equivalent level of personal data protection as mandated by the decision-making authority, such as the European Union’s General Data Protection Regulation (GDPR). This concept is particularly significant for South Korea and the United States, given their divergent approaches to data governance. South Korea’s Personal Information Protection Act (PIPA) exemplifies a robust regulatory framework that has developed to harmonize data protection with digital innovation. In contrast, the United States operates within a fragmented, market-driven paradigm characterized by varying state regulations and an emphasis on economic liberalization. The implications of these frameworks underscore the imperative for international cooperation in establishing consistent standards that not only enhance legal clarity and operational efficiency for businesses but also foster consumer trust in the handling of personal data within an increasingly globalized digital economy. Judge KIM provided valuable insights for jurisdictions contemplating their own adequacy decisions in relation to those of the European Commission.

The event was jointly organized by the Hong Kong Commercial and Maritime Law Center (HKCML) and the Asian Institute of International Financial Law (AIIFL), attracting over 100 sign-ups, including professional scholars, legal practitioners and students. Participants displayed great

interest in the subject matter, posing incisive inquiries that not only sought clarification but also critically examined prevailing assumptions surrounding data protection frameworks. This active participation fostered a dynamic academic environment, facilitating the exchange of diverse perspectives and enriching the discourse on adequacy decisions. The collaborative sharing of ideas significantly enhanced the intellectual dialogue on this pertinent topic, enabling attendees to synthesize insights from various jurisdictions, and in turn deepening their understanding of the intricate challenges associated with cross-border data governance and its implications for future regulatory developments.

