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**Issued by the Article 29 Data Protection Working Party**

**The Court of Justice of the European Union invalidates  
the EU Commission Safe Harbor Decision**

The European data protection authorities assembled in the Article 29 Working Party take note of the **milestone decision** of the Court of Justice of the European Union (CJEU) of 6 October 2015 in the Maximilian Schrems v Data Protection Commissioner ruling and that the European Commission decision 2000/250 (the so-called "Safe Harbor decision") is invalid.

The Working Party welcomes the fact that the Court's decision reaffirms that **data protection rights are an inherent part of the EU fundamental rights regime.**

The EU data protection authorities also acknowledge the fact that the Court concluded that the powers of data protection authorities are not reduced by the existence of the Safe Harbor decision by the European Commission. As a consequence, data protection authorities, empowered as described in Article 28 of Directive 95/46 must always have the possibility to investigate, with complete independence, a complaint alleging that a third country does not ensure an adequate level of protection of the personal data transferred.

For several years, the Working Party has been studying the impact of mass surveillance on international transfers and has on several occasions presented its concerns.

Today's Court judgment confirms that due to in particular the existence of mass surveillance and the absence of possibility for an individual to pursue legal remedies in order to have access and to obtain rectification or erasure, serious questions exist regarding the continuity of the level of data protection when data are transferred to the United-States.

**The Working party is aware that this decision**, taken in the context of the negotiation on the European Regulation and the discussions on the Safe Harbour between the European Commission and the US authorities, **has major consequences on all stakeholders.**

For these reasons, **in order to provide a coordinated analysis of the Court's decision and to determine the consequences on transfers**, a first round of **discussions between experts is organized this week in Brussels.** Moreover, an **extraordinary plenary meeting of the Working Party** will be shortly scheduled.

## **Background information**

The Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

[http://ec.europa.eu/justice/data-protection/article-29/index\\_en.htm](http://ec.europa.eu/justice/data-protection/article-29/index_en.htm)