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FOURTEENTH LEGISLATURE

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Recorded at the Presidency of the National Assembly on 11 May 2016

**MOTION FOR A EUROPEAN RESOLUTION**

*On the 'Privacy shield' personal data protection agreement between the United States of America and the European Union,*

(Committed to the constitutional acts, legislation and general administration of the Republic committee, failing the appointment of a special committee in the time period set down by Articles 30 and 31 of the Rules of Procedure)

TABLED,

ON BEHALF OF THE EUROPEAN AFFAIRS COMMITTEE,

BY M<sup>RS</sup> MARIETTA KARAMANLI AND M<sup>R</sup> CHARLES DE LA VERPILLIÈRE,

Rapporteurs,

## MOTION FOR A EUROPEAN RESOLUTION

### **Single article**

The National Assembly,

In the light of Article 88-4 of the Constitution,

In the light of the Treaty on the Functioning of the European Union, and in particular its Article 16,

In the light of the Charter of Fundamental Rights of the European Union, and in particular its Articles 7 and 8,

In the light of the European Convention for the Protection of Human Rights, and in particular its Article 8,

In the light of Convention 108 of the Council of Europe,

In the light of directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data,

In the light of the proposal for a directive COM(2012) 10 of the European Parliament and of the Council of 25 January 2012 on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data,

In the light of the proposal for a regulation COM(2012) 11 of the European Parliament and of the Council of 25 January 2012 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (general data protection regulation),

In the light of Commission decision 2000/520/EC of 26 July 2000 pursuant to directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce,

In the light of the Judgement of the Court of Justice of the European Union of 6 October 2015, in case C-362/14, M. Schrems v Data Protection Commissioner,

In the light of the communication COM(2015) 566 final from the Commission to the European Parliament and the Council of 6 November 2015 on the Transfer of Personal Data from the EU to the United States of America under Directive 95/46/EC, following the Judgement by the Court of Justice in Case C-362/14 (Schrems)

In the light of the communication COM(2016) 117 from the Commission to the European Parliament and the Council of 29 February 2016 'Transatlantic Data Flows: Restoring Trust through Strong Safeguards',

In the light of the draft agreement for a 'Privacy shield' between the European Union and the United States presented on 29 February 2016,

In the light of the opinion 01/2016 of the Article 29 Group, formed by national authorities for the protection of personal data, on the draft adequacy decision on the personal data privacy shield between the European Union and the United States,

Considering that data processing systems must respect people's fundamental rights and freedoms, especially privacy, and contribute to economic and social progress, the development of trade and the well-being of individuals,

Considering the large volume of exchanges of personal data with the United States, the EU's principal trading partner, and the need to create a protective framework for rights essentially equivalent to that of the European Union,

Considering the invalidation by the Court of Justice of the European Union of the Safe Harbour agreement introduced in 2000 between the EU and the United States, and the legal uncertainty which could arise,

1. Welcomes the significant improvements contributed by the new EU-US data transfer framework, the 'EU-US privacy shield', especially as regards the definition of key terms, its respect for the rights to correct or delete data and the introduction of an annual review mechanism,

2. Considers that the agreement should be simplified in the form of a single and more homogeneous document,

3. Calls for further clarification of the terminology by paying special attention to consistent use of notions in all parts of the agreement, and by attaching a glossary thereto,

4. Calls for the possibility of massive and indiscriminate surveillance of the data of European citizens to be more clearly stated so as to be ruled out and at the very least limited and proportionate to the sole clearly established goals of security and the protection of public order,

5. Demands that all the judicial remedies for European citizens should present a clearer structure, with a greater role as a cornerstone for the European national data protection authorities,

6. Demands that the American ombudsperson provided for in the agreement should have all the guarantees to fulfil his duties in a sufficiently independent manner,

7. Emphasises that the subsequent transfer of data to third countries remains as such a thorny aspect of the agreement,

8. Desires that a rendezvous clause for a renegotiation be included in the agreement so as to take account of advances allowed by the reform of the European personal data protection framework.