



EUROPEAN COMMISSION

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Dear President

The Commission would like to thank the Assembleia da República for its Opinion on the Communication "Exchanging and Protecting Personal Data in a Globalised World" {COM(2017) 7 final}, the Proposal for a Regulation on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC {COM(2017) 8 final}, the Communication "Building A European Data Economy" {COM(2017) 9 final}, and on the Proposal for a Regulation concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) {COM(2017) 10 final}.

The Commission welcomes the support of the Assembleia da República for the above-mentioned proposals and duly notes its observations.

The Communication on Exchanging and Protecting Personal Data in a Globalised World {COM(2017) 7 final} sets out the Commission's policy to facilitate international data transfers – which are increasingly important for commercial exchanges and law enforcement cooperation – while ensuring a high level of protection of personal data. In this respect, the objective of the Communication is to ensure that, when the data of Europeans are transferred abroad, the protection travels with the data.

In the law enforcement area, cooperation will be facilitated through mutual trust and legal certainty and this in turn requires clear and strong data protection standards. The European Union – United States Umbrella Agreement is an example of how this can be accomplished. The Umbrella Agreement constitutes the first bilateral international agreement in relation to the prevention, investigation, detection or prosecution of criminal offences, including terrorism, with a comprehensive catalogue of data protection rights and obligations in line with the European Union acquis, which also takes into account the specific nature of law

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enforcement processing. The Commission may use this agreement as a model for negotiating similar agreements with other third countries in the field of judicial and police cooperation. At the same time, with some international partners it might not be necessary to conclude an Umbrella-type data protection agreement because their domestic rules already provide for a level of data protection that is essentially equivalent to that in the European Union. In those cases, the free flow of data may be achieved by using the instrument of an adequacy finding.

When it comes to law enforcement, one of the fields in which European Union law enforcement authorities and bodies are facing global challenges is the fight against cybercrime. The Commission, following a mandate from the Council, is working on solutions to ensure that law enforcement authorities are able to obtain the electronic evidence needed for an investigation, in full respect of the data protection rules and other guarantees such as due process. The conclusions of this work, including possible options, were presented to the Justice and Home Affairs (JHA) Council on 8 June 2017. During the Council, Member States asked the Commission to pursue its work on the practical measures suggested, but also to propose legislation. An impact assessment will therefore be prepared, and consultation with Member States experts will continue.

As regards the Proposal for a Regulation on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data, and repealing Regulation (EC) No Decision No 45/2001 1247/2002/EC {COM(2017) 8 final}, as well as the Proposal for a Regulation concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) {COM(2017) 10 final}, the Commission reiterates its appreciation for the support of the Assembleia da República.

On the Communication "Building A European Data Economy" {COM(2017) 9 final} the Commission notes the Assembleia da República's recommendation of careful monitoring of all initiatives regarding the legislative package "Data Protection", as well as all developments for the future European Union framework for access to data, with which it agrees.

The Commission is pleased that the Assembleia da República has concluded that the proposal for a Regulation concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC {COM(2017) 10 final} is consistent with the principle of subsidiarity set out in the Treaty on European Union.

The Opinion of the Assembleia da República has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.

The Commission looks forward to continuing the political dialogue with the Assembleia da República in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

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Member of the Commission*