



EUROPEAN COMMISSION

*Brussels, 6.12.2016
C(2016) 7890 final*

Dear President,

The Commission would like to thank the Camera Deputaților for its Opinion on the Communication from the Commission to the European Parliament and the Council entitled "Transatlantic Data Flows: Restoring Trust through Strong Safeguards" {COM(2016) 117 final}.

The Commission is pleased to learn that the Camera Deputaților welcomes the Commission's adequacy decision on the EU-US Privacy Shield framework and the subsequent launch of the Privacy Shield in the United States.

This new framework agreed with the United States will strengthen EU-US relations as well as the transatlantic economy, but in particular the protections of the rights of EU individuals when their personal data are transferred to the United States for commercial purposes. It is a much stronger framework than the old Safe Harbour arrangement, inter alia because it strengthens the rights of EU individuals, including when personal data is transmitted further to companies outside the framework, and creates new venues for bringing complaints in case of non-compliance.

As regards the rules on onward transfers (point 20 of the Opinion), in order to ensure that the Privacy Shield cannot be circumvented by passing the data of EU individuals onto other companies outside the framework, the ultimate recipient has to guarantee that the personal data received from a Privacy Shield company enjoy the same level of protection as under the Privacy Shield.

The adequacy decision also sets out in detail the various redress possibilities (points 11 and 18 of the Opinion). Most of these options are alternatives: an individual does not have to exhaust all of them, or use them in a specific order, to obtain redress. In addition, cooperation between the enforcement authorities on both sides of the Atlantic has been strengthened considerably. On the EU side, it will involve the national Data Protection Authorities, and on the US side the Department of Commerce and the Federal Trade Commission.

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Moreover, as the Camera Deputaţilor has noted in its Opinion, the Commission has also issued a guide explaining both the rights and redress possibilities available to EU data subjects.

Furthermore, the Privacy Shield covers for the first time the area of government access, both as regards the limitations and safeguards and individual redress.

The issue of bulk collection (point 11 of the Opinion) was a central point of the discussions with the United States. The Commission received assurances that bulk collection may only be used exceptionally when collection targeted at a specific suspect is not possible; filters and other tools are used to focus on specific national intelligence needs and to minimise data collection.

As for individual redress, the newly created Ombudsperson (point 16 of the Opinion) will provide a new, independent redress mechanism that will address complaints by individuals on national security access. Importantly, the Commission obtained assurances from the United States regarding Ombudsperson's functional independence: in addition to being fully independent of the intelligence community, the US government has made a commitment that the Ombudsperson will be able to carry out his/her functions free from any undue influence that could affect his/her findings.

Finally, the Commission and the United States have agreed to hold annual reviews (point 17 of the Opinion) to discuss the functioning of the framework and in particular to allow the Commission to address questions to the US authorities. These reviews will cover all aspects of the framework, including national security access and the Ombudsperson mechanism. They will bring together not just the Department of Commerce (as the administrator of the Privacy Shield) and the Commission, but also representatives of the US government dealing with national security and, on the EU side, of the Data Protection Authorities. Furthermore, the Commission will monitor the Privacy Shield on an ongoing basis and will receive updates from the US government on any legal developments in the United States that could negatively affect the Privacy Shield's safeguards.

The Commission hopes that these comments address the issues raised by the Camera Deputaţilor and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Věra Jourová
Member of the Commission*