

STATEMENT OF THE ARTICLE 29 WORKING PARTY ON THE PRESENTATION BY THE EUROPEAN COMMISSION OF THE EU-U.S. PRIVACY SHIELD

Brussels, 29 February 2016

The Article 29 Working Party welcomes the publication of the draft “adequacy-decision” of the European Commission as well as of the legal texts that constitute the EU-U.S. Privacy Shield arrangement. These documents have to be analyzed with great attention as regards the need for restoring trust in transatlantic data flows.

In accordance with Article 30(1)(c) of Directive 95/46/EC, the Working Party will now assess these documents in order to give its opinion on the level of protection afforded by the EU-U.S. Privacy Shield. To this end, the relevant subgroups of the Working Party will be mobilized and will analyze the safeguards provided for in the arrangement on both the commercial aspects and the limitations for national security, public interests and law enforcement purposes.

The assessment of the Working Party will be conducted, *inter alia*, in light of the Court of Justice of the European Union’s decision of 6 October 2015 in the Schrems case¹, the European jurisprudence on fundamental rights², the letter of the Working Party to the European Commission on Safe Harbour of 10 April 2014³ and the Working Party’s Working Document on transfers of personal data to third countries.⁴

On the basis of the work of the different subgroups, the Future of Privacy subgroup will finalize the Working Party’s draft opinion which will then be adopted at the next plenary meeting on 12 and 13 April 2016.

Following the Working Party’s opinion, the next steps in the procedure before the adoption of the “adequacy-decision” by the European Commission will be the opinion of the Member States in comitology, in accordance with Article 31 of Directive 95/46/EC.

¹ Available at: <http://curia.europa.eu/juris/document/document.jsf?docid=169195&doclang=EN>

² See: http://ec.europa.eu/justice/data-protection/article-29/press-material/press-release/art29_press_material/2016/20160203_statement_consequences_schrems_judgement_en.pdf

³ Available at : http://ec.europa.eu/justice/data-protection/article-29/documentation/other-document/files/2015/20150205_sh_annex_20140410_wp29_to_ec_on_sh_recommendations.pdf

⁴ Available at: http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/1998/wp12_en.pdf