

Restoring trust in transatlantic data flows through strong safeguards: European Commission unveils EU-U.S. Privacy Shield

The European Commission today issued a Communication summarising the actions taken over the last years to **restore trust in transatlantic data flows** since the 2013 surveillance revelations. In line with President Juncker's [political guidelines](#), the Commission has (i) finalised the reform of [EU Data protection rules](#), which apply to all companies providing services on the EU market, (ii) negotiated the [EU-U.S. Umbrella Agreement](#) ensuring high data protection standards for data transfers across the Atlantic for law enforcement purposes, and (iii) achieved a renewed sound framework for commercial data exchange: the [EU-U.S. Privacy Shield](#).

The Commission also made public today a draft "adequacy decision" of the Commission as well as the texts that will constitute the **EU-U.S. Privacy Shield**. This includes the Privacy Shield Principles companies have to abide by, as well as written commitments by the U.S. Government (to be published in the U.S. Federal Register) on the enforcement of the arrangement, including assurance on the safeguards and limitations concerning access to data by public authorities.

Vice-President Ansip said: *"Now we start turning the EU-U.S. Privacy Shield into reality. Both sides of the Atlantic work to ensure that the personal data of citizens will be fully protected and that we are fit for the opportunities of the digital age. Businesses are the ones that will implement the framework; we are now in contact on a daily basis to ensure the preparation is done in the best possible way. We will continue our efforts, within the EU and on the global stage, to strengthen confidence in the online world. Trust is a must, it is what will drive our digital future."*

Commissioner Jourová said: *"Ensuring the fundamental right to protection of personal data is my priority both inside the EU and in our international relations. The EU-U.S. Privacy Shield is a strong new framework, based on robust enforcement and monitoring, easier redress for individuals and, for the first time, written assurance from our U.S. partners on the limitations and safeguards regarding access to data by public authorities on national security grounds. Also, now that President Obama has signed the Judicial Redress Act granting EU citizens the right to enforce data protection rights in U.S. courts, we will shortly propose the signature of the EU-U.S. Umbrella Agreement ensuring safeguards for the transfer of data for law enforcement purposes. These strong safeguards enable Europe and America to restore trust in transatlantic data flows"*.

Once adopted, the Commission's adequacy finding establishes that the safeguards provided when data are transferred under the new **EU-U.S. Privacy Shield** are equivalent to data protection standards in the EU. The new framework reflects the requirements set by the European Court of Justice in its ruling from 6 October 2015. The U.S. authorities provided strong commitments that the Privacy Shield will be strictly enforced and assured there is no indiscriminate or mass surveillance by national security authorities.

This will be guaranteed through:

- **strong obligations on companies and robust enforcement:** the new arrangement will be transparent and contain effective supervision mechanisms to ensure that companies respect their obligations, including sanctions or exclusion if they do not comply. The new rules also include tightened conditions for onward transfers to other partners by the companies participating in the scheme.
- **clear safeguards and transparency obligations on U.S. government access:** for the first time, the U.S. government has given the EU written assurance from the Office of the Director of National Intelligence that any access of public authorities for national security purposes will be subject to clear limitations, safeguards and oversight mechanisms, preventing generalised access to personal data. U.S. Secretary of State John Kerry committed to establishing a **redress possibility** in the area of national intelligence for Europeans through an **Ombudsperson mechanism** within the Department of State, who will be **independent** from national security services. The Ombudsperson will follow-up complaints and enquiries by individuals and inform them whether the relevant laws have been complied with. These written commitments will be published in the U.S. federal register.
- **Effective protection of EU citizens' rights with several redress possibilities:** Complaints have to be resolved by companies within 45 days. A free of charge Alternative Dispute Resolution solution will be available. EU citizens can also go to their national Data Protection Authorities, who will work with the Federal Trade Commission to ensure that unresolved complaints by EU citizens are investigated and resolved. If a case is not resolved by any of the other means, as a last resort there will be an arbitration mechanism ensuring an enforceable remedy. Moreover, companies can commit to comply with advice from European DPAs. This is obligatory for companies handling human resource data.
- **Annual joint review mechanism:** the mechanism will monitor the functioning of the Privacy Shield, including the commitments and assurance as regards access to data for law enforcement and national security purposes. The European Commission and the U.S. Department of Commerce will conduct the review and associate national intelligence experts from the U.S. and European Data Protection Authorities. The Commission will draw on all other sources of information available, including transparency reports by companies on the extent of government access requests. The Commission will also hold an annual privacy summit with interested NGOs and stakeholders to discuss broader developments in the area of U.S. privacy law and their impact on Europeans. On the basis of the annual review, the Commission will issue a public report to the European Parliament and the Council.

Next steps

Now, a committee composed of representatives of the Member States will be consulted and the EU Data Protection Authorities (Article 29 Working Party) will give their opinion, before a

final decision by the College. In the meantime, the U.S. side will make the necessary preparations to put in place the new framework, monitoring mechanisms and the new Ombudsperson mechanism.

Following the adoption of the Judicial Redress Act by the U.S. Congress, signed into law by President Obama on 24 February, the Commission will shortly propose the signature of the Umbrella Agreement. The decision concluding the Agreement should be adopted by the Council after obtaining the consent of the European Parliament.

For more information

Communication

Draft adequacy decision

[Q&A](#)

Factsheet

EU-U.S. Privacy Shield political agreement [press release](#)

Data protection reform [press release](#) and [Q&A](#)

EU-U.S. Umbrella agreement [statement](#) and [Q&A](#)