



## STATEMENT

EDPS/2020/08

Brussels, 17 July 2020

### **EDPS Statement following the Court of Justice ruling in Case C-311/18 *Data Protection Commissioner v Facebook Ireland Ltd and Maximilian Schrems* (“Schrems II”)**

The EDPS welcomes that the [Court of Justice of the European Union, in its landmark Grand Chamber judgment of 16 July 2020](#), **reaffirmed the importance of maintaining a high level of protection of personal data transferred from the European Union to third countries**. The EDPS will continue to strive, as a member of the European Data Protection Board (EDPB), to achieve the necessary coherent approach among the European supervisory authorities in the implementation of the EU framework for international transfers of personal data.

This is the second time in almost 5 years that a European Commission adequacy decision concerning the United States is invalidated by the Court. In its judgement, the Court confirmed the **criticisms of the Privacy Shield** repeatedly expressed by the EDPS and the EDPB. **European supervisory authorities will advise the Commission** on any future adequacy decisions, in line with the interpretation of the General Data Protection Regulation (GDPR) provided by the Court.

In the meantime, particularly since the entry into force of the GDPR, a growing number of data protection and privacy laws have been adopted worldwide, including the new Convention 108+ adopted by the Council of Europe. The protection of personal data requires **actionable rights for everyone**, including before independent courts. **It is more than a “European” fundamental right – it is a fundamental right widely recognised around the globe**. Against this background, the EDPS trusts that the **United States will deploy all possible efforts and means to move towards a comprehensive data protection and privacy legal framework, which genuinely meets the requirements** for adequate safeguards reaffirmed by the Court.

The EDPS notes that the Court, while in principle confirming the validity of Standard Contractual Clauses (SCC), provided welcomed clarifications regarding the responsibilities of controllers and European DPAs to take into account the risks linked to the access to personal data by the public authorities of third countries. European supervisory authorities have the duty to diligently enforce the applicable data protection legislation and, where appropriate, to suspend or prohibit transfers of data to a third country. **As the supervisory authority of the EU institutions, bodies, offices and agencies, the EDPS is carefully analysing the consequences of the judgment on the contracts concluded by EU institutions, bodies, offices and agencies**. The example of the recent EDPS’ own-initiative investigation into [European institutions’ use of Microsoft products and services](#) confirms the importance of this challenge.

## **Background information**

The rules for data protection in the EU institutions, as well as the duties of the European Data Protection Supervisor (EDPS), are set out in [Regulation \(EU\) 2018/1725](#).

The EDPS is the independent supervisory authority with responsibility for monitoring the processing of personal data by the [EU institutions and bodies, offices and agencies](#), advising on policies and legislation that affect privacy and cooperating with similar authorities to ensure consistent data protection. Our mission is also to raise awareness on risks and protect people's rights and freedoms when their personal data is processed.

**Wojciech Wiewiórowski** (EDPS), was appointed by a joint decision of the European Parliament and the Council to serve a five-year term, beginning on 6 December 2019.

**Personal information or data:** any information relating to an identified or identifiable natural (living) person. Examples include names, dates of birth, photographs, video footage, email addresses and telephone numbers. Other details, such as IP addresses and communications content - related to or provided by end-users of communications services - are also considered as personal data.

**Privacy:** the right of an individual to be left alone and in control of information about his or herself. The right to privacy or private life is enshrined in the Universal Declaration of Human Rights (Article 12), the European Convention of Human Rights (Article 8) and the European Charter of Fundamental Rights (Article 7). The Charter also contains an explicit right to the protection of personal data (Article 8).

**Processing of personal data:** According to Article 3(3) of Regulation (EU) 2018/1725, processing of personal data refers to "any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction". See the [glossary](#) on the EDPS website.

The powers of the EDPS are clearly outlined in Article 58 of Regulation (EU) 2018/1725.

The European Data Protection Supervisor (EDPS) is an independent supervisory authority devoted to protecting personal data and privacy and promoting good practice in the EU institutions and bodies. He does so by:

- monitoring the EU institutions' processing of personal data;
- monitoring technological developments and advising on policies and legislation concerning technological developments that affect privacy and personal data protection;
- advising on policies and legislation that affect privacy and personal data protection;
- cooperating with similar authorities to ensure consistent data protection.

The [Press Release](#) is available on the EDPS website. Questions can be directed to: [press@edps.europa.eu](mailto:press@edps.europa.eu)

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