



2016/3018(RSP)

30.1.2017

AMENDMENTS

1 - 71

Draft motion for a resolution

Claude Moraes

(PE595.560v01-00)

Adequacy of the protection afforded by the EU-U.S. Privacy Shield
(2016/3018(RSP))

Amendment 1
Jan Philipp Albrecht

Draft motion for a resolution
Citation 6 a (new)

Draft motion for a resolution

Amendment

- *having regard to the Commission communication to the European Parliament and the Council of 10 January 2017 on Exchanging and Protecting Personal Data in a Globalised World^{1a};*

^{1a} *COM(2017)07, 10.01.2017*

Or. en

Amendment 2
Jan Philipp Albrecht

Draft motion for a resolution
Citation 6 b (new)

Draft motion for a resolution

Amendment

- *having regard to the judgment of the European Court of Justice of 21 December 2016 in Cases C-203/15 Tele2 Sverige AB v Post- och telestyrelsen and C-698/15 Secretary of State for the Home Department v Tom Watson and Others^{1a} ;*

^{1a} *EU:C:2016:970*

Or. en

Amendment 3
Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution

Recital D

Draft motion for a resolution

D. whereas in its Opinion 4/2016 the EDPS raised several concerns on the draft Privacy Shield;

Amendment

D. whereas in its Opinion 4/2016 the EDPS raised several concerns on the draft Privacy Shield; ***while the EDPS welcomes in the same opinion the efforts made by all parties to find a solution for transfers of personal data from the EU to the US for commercial purposes under a system of self-certification;***

Or. en

Amendment 4

Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution

Recital E

Draft motion for a resolution

E. whereas in its Opinion 01/2016 the Article 29 Working Party on the draft EU-U.S. Privacy Shield adequacy implementing Commission Decision welcomed the significant improvements brought about by the Privacy Shield compared with the Safe Harbour decision ***whilst also raising strong concerns about*** both the commercial aspects and access by public authorities to data transferred under the Privacy Shield;

Amendment

E. whereas in its Opinion 01/2016 the Article 29 Working Party on the draft EU-U.S. Privacy Shield adequacy implementing Commission Decision welcomed the significant improvements brought about by the Privacy Shield compared with the Safe Harbour decision ***and in particular, the insertion of key definitions, the mechanisms set up to ensure the oversight of the Privacy Shield list and the now mandatory external and internal reviews of compliance, and whereas the Working Party has also asked clarifications on*** both the commercial aspects and ***the*** access by public authorities to data transferred under the Privacy Shield;

Or. en

Amendment 5

Josef Weidenholzer

**Draft motion for a resolution
Paragraph 1 a (new)**

Draft motion for a resolution

Amendment

1a. Is aware that the EU-US Privacy Shield rests solely on PPD-28, which was issued by the President and can also be repealed by any future President without Congress's consent;

Or. de

**Amendment 6
Axel Voss, Monika Hohlmeier, Jeroen Lenaers**

**Draft motion for a resolution
Paragraph 2**

Draft motion for a resolution

Amendment

2. Acknowledges that the EU-U.S. Privacy Shield *contains significant improvements compared to the former EU-U.S. Safe Harbour* and that *U.S. organisations self-certifying adherence to the EU-U.S. Privacy Shield will have to comply with higher data protection standards than under Safe Harbour*;

2. Acknowledges that the EU-U.S. Privacy Shield *differs substantially from the Safe Harbour Framework, providing for a significantly more detailed documentation that imposes more specific obligations on companies willing to join the framework* and that *includes new checks and balances ensuring that the rights of EU data subjects can be exercised when their data are being processed in the US*;

Or. en

**Amendment 7
Jan Philipp Albrecht**

**Draft motion for a resolution
Paragraph 2**

Draft motion for a resolution

Amendment

2. Acknowledges that the EU-U.S. Privacy Shield contains significant improvements compared to the former EU-U.S. Safe Harbour and that U.S. organisations self-certifying adherence to the EU-U.S. Privacy Shield will have to comply with **higher** data protection standards than under Safe Harbour;

2. Acknowledges that the EU-U.S. Privacy Shield contains significant improvements **regarding the clarity of standards** compared to the former EU-U.S. Safe Harbour and that U.S. organisations self-certifying adherence to the EU-U.S. Privacy Shield will have to comply with **clearer** data protection standards than under Safe Harbour;

Or. en

Amendment 8
Josef Weidenholzer

Draft motion for a resolution
Paragraph 2

Draft motion for a resolution

2. Acknowledges that the EU-U.S. Privacy Shield contains **significant** improvements compared to the former EU-U.S. Safe Harbour and that U.S. organisations self-certifying adherence to the EU-U.S. Privacy Shield will have to comply with higher data protection standards than under Safe Harbour;

Amendment

2. Acknowledges that the EU-U.S. Privacy Shield contains improvements compared to the former EU-U.S. Safe Harbour and that U.S. organisations self-certifying adherence to the EU-U.S. Privacy Shield will have to comply with higher data protection standards than under Safe Harbour;

Or. de

Amendment 9
Beatrix von Storch

Draft motion for a resolution
Paragraph 2 a (new)

Draft motion for a resolution

Amendment

2a. Acknowledges that a French privacy advocacy group, La Quadrature du Net, has challenged the Adequacy Decision in a legal action to the CJEU claiming that the U.S. Ombudsman

redress mechanism is not sufficiently independent and effective and therefore the Adequacy Decision must be annulled;

Or. en

Amendment 10
Josef Weidenholzer

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

3. Takes note that on 6 December 2016, 1170 U.S. organisations have joined the EU-U.S. Privacy Shield;

Amendment

3. Takes note that on 6 December 2016, 1170 U.S. organisations have joined the EU-U.S. Privacy Shield; ***regrets that the Privacy Shield is based solely on voluntary self-certification and therefore applies only to US organisations which have voluntarily signed up to it, which means that many companies are not covered by the scheme;***

Or. de

Amendment 11
Axel Voss, Monika Hohlmeier, Jeroen Lenaers

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

3. Takes note that on 6 December 2016, ***1170*** U.S. organisations have joined the EU-U.S. Privacy Shield;

Amendment

3. Takes note that on 6 December 2016, ***1494*** U.S. organisations have joined the EU-U.S. Privacy Shield;

Or. en

Amendment 12
Beatrix von Storch

Draft motion for a resolution
Paragraph 3 a (new)

Draft motion for a resolution

Amendment

3a. Acknowledges that there is a pending proceeding in the Irish High Court initiated by the Irish Data Protection Authority challenging the Adequacy Decision relating to the Standard Contractual Clauses (another mechanism to transfer personal data out of the EU) which may subsequently be referred to the CJEU;

Or. en

Amendment 13
Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution
Paragraph 4

Draft motion for a resolution

Amendment

4. Acknowledges that the EU-U.S. Privacy Shield facilitates data transfers from SMEs and businesses in the Union to the U.S.;

4. Acknowledges that the EU-U.S. Privacy Shield facilitates data transfers from SMEs and businesses in the Union to the U.S.; **welcomes that companies are not left anymore in a legal limbo and that the EU-US Privacy Decision is providing a legal base for the data transfer; also recalls that legal certainty, and in particular clear and uniform rules are a key element for business development and growth, in particular for SMEs companies; insist in this regard that SMEs accounted for 60% of the companies relying on the Safe Harbour Framework and that SMEs stand to gain the most from the new Privacy Shield and calls on the Commission in close cooperation with the DPAs to provide for greater clarity, precision and accessibility in the implementing and functioning of**

the Privacy Shield for those companies;

Or. en

Amendment 14
Beatrix von Storch

Draft motion for a resolution
Paragraph 4 a (new)

Draft motion for a resolution

Amendment

4a. Acknowledges that Digital Rights Ireland (DRI) brought an action against the Commissions Adequacy Decision to the CJEU in which DRI claims that the Adequacy Decision of the European Commission regarding the EU-U.S. Privacy Shield is null and void as it does not provide a level of data protection equivalent to the level of data protection established by European data protection law;

Or. en

Amendment 15
Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution
Paragraph 5

Draft motion for a resolution

Amendment

5. Notes that, in line with the ruling of the Court in the Schrems case, the powers of the European data protection authorities remain unaffected by the adequacy decision and hence they can exercise their powers, including the suspension or the ban of data transfers to an organisation registered in the EU-U.S. Privacy Shield;

5. Notes that, in line with the ruling of the Court in the Schrems case, the powers of the European data protection authorities remain unaffected by the adequacy decision and hence they can exercise their powers, including the suspension or the ban of data transfers to an organisation registered in the EU-U.S. Privacy Shield; ***welcomes in this regard the prominent role given by the Privacy Shield***

Framework to Member State DPAs to examine and investigate claims related to the protection of the rights to privacy and family life under the EU Charter of Fundamental Rights, to suspend transfers of data, as well as the obligation placed upon the US Department of Commerce to resolve such complaints;

Or. en

Amendment 16

Axel Voss, Jeroen Lenaers, Michal Boni, Monika Hohlmeier

Draft motion for a resolution

Paragraph 5 a (new)

Draft motion for a resolution

Amendment

5a. Notes with satisfaction that under the Privacy Shield Framework, EU data subjects dispose of several ways to pursue legal remedies in the US as first, complaints can be lodged either directly to the company or through the Department of Commerce following a referral by a Data Protection Authority (DPA) or to an independent dispute resolution body; secondly, with regard to interferences with fundamental rights for the purpose of national security, a civil claim can be brought before the US court. Similar complaints can also be addressed by the newly-created independent Ombudsperson; finally, complaints about interferences with fundamental rights for the purposes of law enforcement further and the public interest can be dealt with by motions challenging subpoenas; encourages further guidance from the European Commission and DPAs to make those legal remedies all more easily accessible and available;

Or. en

Amendment 17
Beatrix von Storch

Draft motion for a resolution
Paragraph 5 a (new)

Draft motion for a resolution

Amendment

5a. *Calls on the Commission to halt implementation of the decision in light of these several challenges and the seriousness of the allegations contained therein;*

Or. en

Amendment 18
Josef Weidenholzer

Draft motion for a resolution
Paragraph 6

Draft motion for a resolution

Amendment

6. Acknowledges the clear commitment of the U.S. Department of Commerce to closely monitor the compliance by U.S. organisations of the EU-U.S. Privacy Shield principles and their intention to take enforcement actions against entities failing to comply;

6. *Doubts whether the U.S. Department of Commerce is the right body to monitor compliance with data protection provisions, but acknowledges the clear commitment of the U.S. Department of Commerce to closely monitor the compliance by U.S. organisations of the EU-U.S. Privacy Shield principles and their intention to take enforcement actions against entities failing to comply; calls for a written report on possible enforcement actions in the event of failure to comply;*

Or. de

Amendment 19
Beatrix von Storch

Draft motion for a resolution
Paragraph 6 a (new)

Draft motion for a resolution

Amendment

6a. Recalls that by failing to fully transpose the rights contained in Directive 95/46 (specifically at Article 14 and 15), the implementing decision, on its face, fails to adequately ensure that the European Union citizens' rights under EU law are fully provided for where their data is transferred to the United States of America;

Or. en

Amendment 20
Sophia in 't Veld

Draft motion for a resolution
Paragraph 6 a (new)

Draft motion for a resolution

Amendment

6a. Reiterates its call on the Commission to seek clarification on the legal status of the 'written assurances' provided by the US and to ensure that any commitment or arrangement foreseen under the Privacy Shield are maintained following the taking up of office of a new administration in the United States;

Or. en

Amendment 21
Christine Revault D'Allonnes Bonnefoy, Sylvie Guillaume

Draft motion for a resolution
Paragraph 6 a (new)

Draft motion for a resolution

Amendment

6a. Calls on the Commission to monitor the American department's commitments carefully now that a new administration is on the point of taking office;

Or. fr

Amendment 22

Axel Voss, Michal Boni, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution

Paragraph 7

Draft motion for a resolution

7. Considers that, despite the **clarifications** made by the U.S. **administration** by means of the letters attached to the Privacy Shield arrangement, important **concerns** remain as regards commercial aspects, national security and law enforcement;

Amendment

7. Considers that, despite the **commitments and assurances** made by the U.S. **government** by means of the letters attached to the Privacy Shield arrangement, important **questions** remain as regards **certain** commercial aspects, national security and law enforcement;

Or. en

Amendment 23

Jan Philipp Albrecht

Draft motion for a resolution

Paragraph 7 a (new)

Draft motion for a resolution

Amendment

7a. Specifically notes the significant difference between the protection provided by Article 7 of Directive 95/46/EC and the “notice and choice” principle of the Privacy Shield arrangement, as well as the considerable differences between Article 6 of Directive 95/46/EC and the “data integrity and purpose limitation” principle of the Privacy Shield arrangement; points out

that instead of the need for a legal basis (such as consent or contract) that applies to all processing operations, the data subject rights under the Privacy Shield Principles only apply to two narrow processing operations (disclosure and change of purpose) and only provide for a right to object (“opt-out”);

Or. en

Amendment 24
Beatrix von Storch

Draft motion for a resolution
Paragraph 7 a (new)

Draft motion for a resolution

Amendment

7a. Recalls that insofar as the implementing decision allows, or in the alternative fails and has failed to safeguard against indiscriminate access to electronic communications by foreign law enforcement authorities, and fails to provide an adequate remedy to EU citizens whose personal data is thus accessed, it denies the individual the right to an Effective Remedy and the right to Good Administration, contrary to the Charter of Fundamental Rights and the General Principles of EU Law;

Or. en

Amendment 25
Christine Revault D’Allonnes Bonnefoy, Sylvie Guillaume

Draft motion for a resolution
Paragraph 7 a (new)

Draft motion for a resolution

Amendment

7a. Takes the view that these

numerous concerns could lead to a fresh challenge to the decision on the adequacy of the protection being brought before the courts in the future; emphasises the harmful consequences as regards both respect for fundamental rights and the necessary legal certainty for stakeholders;

Or. fr

Amendment 26

Axel Voss, Michał Boni, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution

Paragraph 8

Draft motion for a resolution

8. Notes, *amongst, others the lack of specific rules on automated decision-making, on a general right to object, and the lack of clear principles on how the Privacy Shield Principles apply to processors (agents);*

Amendment

8. Notes *that, although U.S. law offers specific protections against adverse decisions in areas where companies most likely resort to automated processing (e.g. employment, credit lending), no specific rules on automated decision-making are provided for in the Privacy Shield and therefore calls on the Commission to monitor the situation, including through the annual reviews;*

Or. en

Amendment 27

Axel Voss, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution

Paragraph 8 a (new)

Draft motion for a resolution

Amendment

8a. *Notes that, while individuals have the possibility to object vis-à-vis the EU controller to any transfer of their personal data to the U.S., and to the further processing of those data in the U.S. where the Privacy Shield company acts as a processor on behalf of the EU controller,*

the Privacy Shield lacks specific rules on a general right to object vis-à-vis the U.S. self-certified company;

Or. en

Amendment 28
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 8 a (new)

Draft motion for a resolution

Amendment

8a. Notes that only a fraction of the U.S. organisations that have joined Privacy Shield have chosen to use an EU data protection authority for the dispute resolution mechanism; is concerned that this constitutes a disadvantage for EU citizens when trying to enforce their rights;

Or. en

Amendment 29
Beatrix von Storch

Draft motion for a resolution
Paragraph 8 a (new)

Draft motion for a resolution

Amendment

8a. Recalls that the contested decision is incompatible with Articles 7 and 8 and Article 52(1) of the Charter of Fundamental Rights of the European Union;

Or. en

Amendment 30

Axel Voss, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution

Paragraph 8 b (new)

Draft motion for a resolution

Amendment

8b. *Notes the lack of explicit principles on how the Privacy Shield Principles apply to processors (agents), while recognizing that all Principles apply to the processing of personal data by any U.S. self-certified company “[u]nless otherwise stated” and that the transfer for processing purposes always requires a contract with the EU controller which will determine the purposes and means of processing, including whether the processor is authorised to carry out onward transfers (e.g. for sub-processing);*

Or. en

Amendment 31

Josef Weidenholzer

Draft motion for a resolution

Paragraph 9

Draft motion for a resolution

Amendment

9. Stresses that, as regards national security and surveillance, notwithstanding the clarifications brought by the Director of National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains possible;

9. Stresses that, as regards national security and surveillance, notwithstanding the clarifications brought by the Director of National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains possible; ***regrets the lack of a uniform definition of the concept of bulk surveillance and the adoption of the American terminology, and therefore calls for a uniform definition of bulk surveillance linked to the European understanding of the term, where***

evaluation is not made dependent on selection; stresses that any kind of mass surveillance is in breach of the EU Charter of Fundamental Rights;

Or. de

Amendment 32

Axel Voss, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution

Paragraph 9

Draft motion for a resolution

9. Stresses that, as regards national security and surveillance, notwithstanding the *clarifications brought* by the Director of National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains possible;

Amendment

9. Stresses that, as regards national security and surveillance, notwithstanding the *representations and assurances provided* by the Director of National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains possible *in exceptional cases and within limits in particular as regards the application of filters used to focus the collection on personal data responsive to specific foreign intelligence needs and to limit the collection of non-pertinent information (minimization)*;

Or. en

Amendment 33

Beatrix von Storch

Draft motion for a resolution

Paragraph 9

Draft motion for a resolution

9. Stresses that, as regards national security and surveillance, notwithstanding the clarifications brought by the Director of

Amendment

9. Stresses that, as regards national security and surveillance, notwithstanding the clarifications brought by the Director of

National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains possible;

National Intelligence Office in the letters attached to the Privacy Shield framework, “bulk surveillance”, despite the different terminology used by the U.S. authorities, remains *not only* possible *but likely, given U.S. intelligence services blatant disregard for privacy of not only foreign citizens but its own as revealed by the whistleblower, Edward Snowden*;

Or. en

Amendment 34
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9a. *Stresses that in its judgment of 21 December 2016, the Court of Justice of the European Union clarified that the Charter of Fundamental Rights “must be interpreted as precluding national legislation which, for the purpose of fighting crime, provides for the general and indiscriminate retention of all traffic and location data of all subscribers and registered users relating to all means of electronic communication”; points out that the bulk surveillance in the U.S. therefore does not provide for an essentially equivalent level of the protection of personal data and communications;*

Or. en

Amendment 35
Sophia in ‘t Veld

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9a. *is alarmed by the recent revelations about surveillance activities conducted by Yahoo!! on all emails reaching its servers, upon request of the NSA and the FBI, as late as 2015, which is one year after Presidential Policy Directive 28 was adopted and during the negotiation of the EU-U.S. Privacy Shield; insists that the Commission seeks full clarification from the US authorities and makes the answers provided available to the Council, Parliament and national data protection authorities;*

Or. en

Amendment 36
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9a. *Is alarmed by the recent revelations about bulk surveillance done by Yahoo on all emails reaching its servers, on behalf of the NSA and the FBI, as late as 2015, which is two years after the revelations by Edward Snowden and one year after Presidential Policy Directive 28 was adopted; sees this as a reason to strongly doubt the assurances brought by the Director of National Intelligence Office; points out that the new U.S. President can unilaterally repeal or amend PPD-28;*

Or. en

Amendment 37

Beatrix von Storch

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9a. *Recalls that by failing to fully transpose the provisions contained in Directive 95/46 (specifically Article 28(3)), the implementing decision, on its face, fails to adequately ensure that the European Union citizens' rights under EU law are fully provided for where their data is transferred to the United States of America;*

Or. en

Amendment 38
Cornelia Ernst

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9a. *deplores that the EU US Privacy Shield does not prohibit the collection of bulk data for law enforcement purposes;*

Or. en

Amendment 39
Sophia in 't Veld

Draft motion for a resolution
Paragraph 9 b (new)

Draft motion for a resolution

Amendment

9b. *Expresses great concerns at the issuance of the "Procedures for the Availability or Dissemination of Raw Signals Intelligence Information by the*

National Security Agency under Section 2.3 of Executive Order 12333”, approved by the Attorney General on January 3, 2017, allowing National Security Agency to share vast amounts of private data gathered without warrant, court orders or congressional authorization with 16 other agencies, including the FBI, the Drug Enforcement Agency, and the Department of Homeland Security; calls on the Commission to immediately assess the compatibility of these new rules with the commitments made by the US authorities under the Privacy Shield, as well as its impact on the level of protection of personal data protection in the United States;

Or. en

Amendment 40
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 9 b (new)

Draft motion for a resolution

Amendment

9b. *Is equally alarmed by the new Raw SIGINT Availability Procedures under Executive Order 12333 of 12 January 2017^{1a}, which give U.S. intelligence agencies much broader access to raw communications data collected by the NSA; points out that signals intelligence data collections under EO 12333 take place without warrants or court approval;*

1a

<https://www.dni.gov/files/documents/icotr/RawSIGINTGuidelines-as-approved-redacted.pdf>

Or. en

Amendment 41

Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution

Paragraph 10

Draft motion for a resolution

10. **Deplores that, neither** the Privacy Shield Principles **nor** the letters of the U.S. administration **providing** clarifications and assurances demonstrate the existence of effective judicial redress rights for individuals in the EU whose personal data are transferred to an U.S. organisation under the Privacy Shield Principles and further accessed and processed by U.S. public authorities for law enforcement and public interest purposes, as required by article 47 of the Charter;

Amendment

10. **Recalls its Resolution of 26 May 2016 welcoming the introduction of new redress mechanisms under the Privacy Shield, but also recognizes that questions remain as to whether** the Privacy Shield Principles **and** the letters of the U.S. administration **provide sufficient** clarifications and assurances **to** demonstrate the existence of effective judicial redress rights for individuals in the EU whose personal data are transferred to an U.S. organisation under the Privacy Shield Principles and further accessed and processed by U.S. public authorities for law enforcement and public interest purposes, as required by article 47 of the Charter;

Or. en

Amendment 42

Jan Philipp Albrecht

Draft motion for a resolution

Paragraph 10

Draft motion for a resolution

10. Deplores that, neither the Privacy Shield Principles nor the letters of the U.S. administration providing clarifications and assurances demonstrate the existence of effective judicial redress rights for individuals in the EU whose personal data are transferred to an U.S. organisation under the Privacy Shield Principles and

Amendment

10. Deplores that, neither the Privacy Shield Principles nor the letters of the U.S. administration providing clarifications and assurances demonstrate the existence of effective judicial redress rights for individuals in the EU whose personal data are transferred to an U.S. organisation under the Privacy Shield Principles and

further accessed and processed by U.S. public authorities for law enforcement and public interest purposes, *as required by* article 47 of the Charter;

further accessed and processed by U.S. public authorities for law enforcement and public interest purposes, *which were emphasized by the European Court of Justice in its judgment of 6 October 2015 as the essence of the fundamental right in* article 47 of the Charter;

Or. en

Amendment 43
Sophia in 't Veld

Draft motion for a resolution
Paragraph 10 a (new)

Draft motion for a resolution

Amendment

10a. *Reminds that Annex VI (letter from Robert S. Litt, Office of the Director of National Intelligence (ODNI)) clarifies that under Presidential Policy Directive 28 (hereinafter 'PPD-28'), bulk collection of personal data and communications of non-US persons is still permitted in six cases; points out that such bulk collection only has to be 'as tailored as feasible' and 'reasonable', which does not meet the stricter criteria of necessity and proportionality as laid down in the Charter;*

Or. en

Amendment 44
Beatrix von Storch

Draft motion for a resolution
Paragraph 10 a (new)

Draft motion for a resolution

Amendment

10a. *Recalls that the provisions of the FISA Amendments Act of 2008 constitute*

legislation permitting public authorities to have secret access on a generalised basis to the content of electronic communications and consequently are not concordant with Article 47 of the Charter Fundamental Rights of the European Union;

Or. en

Amendment 45
Sophia in 't Veld

Draft motion for a resolution
Paragraph 11

Draft motion for a resolution

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals;

Amendment

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals; ***points out that to date the incoming US administration has not appointed a new Ombudsperson following the end of term of the Under Secretary for Economic Growth, Energy, and the Environment appointed to this role in July 2016; considers that in the absence of an appointed independent and sufficiently empowered Ombudsperson, the US assurances with regards to the provision of effective redress to EU individuals would be null and void;***

Or. en

Amendment 46
Axel Voss, Jeroen Lenaers, Monika Hohlmeier

Draft motion for a resolution
Paragraph 11

Draft motion for a resolution

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals;

Amendment

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals, ***while recognizing that according to the representations and assurances provided by the U.S. government the Ombudsperson is independent from the U.S. intelligence services, free from any improper influence that could affect its function and moreover works together with other, independent oversight bodies with effective powers of supervision over the U.S. Intelligence Community;***

Or. en

Amendment 47
Josef Weidenholzer

Draft motion for a resolution
Paragraph 11

Draft motion for a resolution

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals;

Amendment

11. Recalls its Resolution of 26 May 2016 that the Ombudsperson mechanism set up by the U.S. Department of State is not sufficiently independent and is not vested with sufficient effective powers to carry on its duties and provide effective redress to EU individuals; ***is generally concerned that an individual affected by a breach of the rules can apply only for information and for the data to be deleted and/or for a stop to further processing, but has no right to compensation;***

Or. de

Amendment 48
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 11 a (new)

Draft motion for a resolution

Amendment

11a. Is in summary not convinced that the improvements made since its Resolution of 26 May 2016 will be sufficient to prevent the European Court of Justice from invalidating Commission Implementing Decision (EU)2016/1250 on the Privacy Shield; is therefore concerned that this will undermine the overall trust in Commission Implementing Decisions on adequacy and thereby damage the Commission's new strategy for exchanging and protecting data in a globalised world;

Or. en

Amendment 49
Beatrix von Storch

Draft motion for a resolution
Paragraph 11 a (new)

Draft motion for a resolution

Amendment

11a. Recalls that the provisions of the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 ('FISA Amendments Act of 2008') constitute legislation permitting public authorities to have access on a generalised basis to the content of electronic communications and consequently are not concordant with Article 7 of the Charter of Fundamental Rights of the European Union;

Or. en

Amendment 50
Beatrix von Storch

Draft motion for a resolution
Paragraph 12 a (new)

Draft motion for a resolution

Amendment

12a. Recalls that the ‘privacy principles’ and/or the official (US) ‘representations and commitments’ contained in Annexes I, III to VII of the contested decision do not constitute ‘international commitments’ within the meaning of Article 25(6) of Directive 95/46;

Or. en

Amendment 51
Axel Voss, Monika Hohlmeier, Jeroen Lenaers

Draft motion for a resolution
Paragraph 13

Draft motion for a resolution

Amendment

13. **Regrets** that the Commission followed the procedure for adoption of the Commission implementing decision ***in a practical manner that de facto has not enabled the Parliament to*** exercise its right of scrutiny on the draft implementing act in an effective manner;

13. **Underlines** that the Commission followed the ***adequate*** procedure for adoption of the Commission implementing decision ***and stress that the Parliament was informed on time in order*** exercise its right of scrutiny on the draft implementing act in an effective manner;

Or. en

Amendment 52
Beatrix von Storch

Draft motion for a resolution
Paragraph 13 b (new)

Draft motion for a resolution

Amendment

13b. Recalls that the implementing decision is not in accordance with Article 25(6) of Directive 95/46, read in the light of Articles 7, 8 and 47 of the Charter of Fundamental Rights of the European Union;

Or. en

Amendment 53
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 14

Draft motion for a resolution

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018;

Amendment

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018, **which includes either a full revision, including substantive changes in U.S. laws and practices, or a repeal of Commission Implementing Decision (EU)2016/1250, by then;**

Or. en

Amendment 54
Maria Grapini

Draft motion for a resolution
Paragraph 14

Draft motion for a resolution

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018;

Amendment

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018, **since it creates and**

reinforces obligations on controllers which extend beyond the principles developed in the Privacy Shield;

Or. ro

Amendment 55
Josef Weidenholzer

Draft motion for a resolution
Paragraph 14

Draft motion for a resolution

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018;

Amendment

14. Calls on the Commission to take all the necessary measures to ensure that the Privacy Shield will fully comply with Regulation (EU) 2016/679, to be applied as from 16 May 2018, *and with the Charter of Fundamental Rights;*

Or. de

Amendment 56
Cornelia Ernst

Draft motion for a resolution
Paragraph 14 a (new)

Draft motion for a resolution

Amendment

14a. calls on the Commission to ensure, in particular, that personal data that has been transferred to the US under the Privacy Shield can only be transferred to another third country if that transfer is compatible with the purpose for which the data was originally collected, and if the same rules of specific and targeted access for law enforcement apply in the third country;

Or. en

Amendment 57
Beatrix von Storch

Draft motion for a resolution
Paragraph 14 a (new)

Draft motion for a resolution

Amendment

14a. *Calls on the Commission to repeal the implementing decision declaring the adequacy of the EU-U.S. Privacy Shield and to refrain from adopting similar decisions;*

Or. en

Amendment 58
Maria Grapini

Draft motion for a resolution
Paragraph 14 a (new)

Draft motion for a resolution

Amendment

14a. *Takes the view that relevant amendments adapting to the entry into force of Regulation 2016/679 should be made in good time to ensure a sound legal framework in order to provide a boost to cross-border relations;*

Or. ro

Amendment 59
Cornelia Ernst

Draft motion for a resolution
Paragraph 14 b (new)

Draft motion for a resolution

Amendment

14b. *calls on the Commission to ensure that personal data that is no longer necessary for the purpose for which it had been originally collected, is deleted, including by law enforcement agencies;*

Amendment 60
Cornelia Ernst

Draft motion for a resolution
Paragraph 14 c (new)

Draft motion for a resolution

Amendment

14c. *calls on the Commission to closely monitor whether the Privacy Shield allows for the data protection authorities to fully exercise all their powers and if not, to identify the provisions that result in a hindrance to the DPA's exercise of powers;*

Or. en

Amendment 61
Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution
Paragraph 15

Draft motion for a resolution

Amendment

15. Calls on the Commission to conduct, during the first join annual review, a thorough and in-depth examination of ***all the shortcomings and weaknesses referred to in this resolution, in its Resolution of 26 May 2016 on Transatlantic data flows¹², and those identified by the Article 29 Working Party, the EDPS and the stakeholders, and to demonstrate how they have been addressed so as to ensure compliance with the Charter and Union law***, and to evaluate meticulously if the mechanisms and safeguards indicated in the assurances and clarifications by the U.S. administration are effective and feasible;

15. Calls on the Commission to conduct, during the first join annual review, a thorough and in-depth examination of ***the adequacy finding and the legal justifications thereof, both with a view to ensuring that personal data are adequately protected and that is functioning efficiently without unnecessary impairment to the other fundamental rights, such as the right to privacy and security, the right to receive and impart information, and the right to conduct business***, and to evaluate meticulously if the mechanisms and safeguards indicated in the assurances and clarifications by the U.S. administration are

effective and feasible;

¹² Text adopted, P8_TA-PROV(2016)0233.

Or. en

Amendment 62
Beatrix von Storch

Draft motion for a resolution
Paragraph 15 a (new)

Draft motion for a resolution

Amendment

15a. Calls for each Member State that desires a data sharing agreement system to negotiate and create its own data protection systems in accordance with their respective national requirements, democratic principles and laws;

Or. en

Amendment 63
Jan Philipp Albrecht

Draft motion for a resolution
Paragraph 16

Draft motion for a resolution

Amendment

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have full and unrestricted access to all documents and premises necessary for the performance of their task and that their independence in the performance of their tasks is ensured;

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have full and unrestricted access to all documents and premises necessary for the performance of their task and that their independence in the performance of their tasks is ensured, ***including being entitled to issue dissident opinions in the final report of the joint review, which will be public and annexed to the joint report;***

Amendment 64
Sophia in 't Veld

Draft motion for a resolution
Paragraph 16

Draft motion for a resolution

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have full and unrestricted access to all documents and premises necessary for the performance of their task ***and that their independence in the performance of their tasks is ensured;***

Amendment

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have full and unrestricted access to all documents and premises necessary for the performance of their task, ***including elements allowing a proper evaluation of the necessity and proportionality of the collection and access to data transferred by public authorities, either for law enforcement of national security purposes;***

Amendment 65
Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michal Boni

Draft motion for a resolution
Paragraph 16

Draft motion for a resolution

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have ***full and unrestricted*** access to ***all*** documents and premises necessary for the performance of their task and that their independence in the performance of their tasks is ensured;

Amendment

16. Calls on the Commission to ensure that for the conducting of the joint annual review, all the members of the team shall have ***access to all documents in accordance with the existing rules on*** access to documents and premises necessary for the performance of their task and that their independence in the performance of their tasks is ensured;

Amendment 66
Beatrix von Storch

Draft motion for a resolution
Paragraph 16 a (new)

Draft motion for a resolution

Amendment

16a. Invites civil society within Member States to launch a European Citizens Initiative in accordance with Article 24(1) of the Treaty on the Functioning of the European Union, in the spirit of direct democracy, to raise awareness and create a dialogue with the peoples of the EU Member States on Privacy Shield so that any such agreement complies with the concerns raised by the peoples of the Member States;

Or. en

Amendment 67
Sophia in 't Veld

Draft motion for a resolution
Paragraph 16 a (new)

Draft motion for a resolution

Amendment

16a. stresses that any member of the joint review team shall be ensured its independence in the performance of its tasks and shall be entitled to express its own dissenting opinions in the final report of the joint review which will be public and annexed to the joint report;

Or. en

Amendment 68
Axel Voss, Monika Hohlmeier, Jeroen Lenaers

Draft motion for a resolution
Paragraph 17

Draft motion for a resolution

17. Calls on the Union Data Protection Authorities to monitor the functioning of the EU-U.S. Privacy Shield and to exercise their powers, ***including the suspension or definitive ban of personal data transfers to an organisation in the EU-U.S. Privacy Shield if they consider that the fundamental rights to privacy and the protection of personal data of the Union's data subjects are not ensured;***

Amendment

17. Calls on the Union Data Protection Authorities to monitor the functioning of the EU-U.S. Privacy Shield and to exercise their powers;

Or. en

Amendment 69
Beatrix von Storch

Draft motion for a resolution
Paragraph 17 a (new)

Draft motion for a resolution

17a. Recalls its follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens, paragraph 1a, and again urge Member States to drop any criminal charges against Edward Snowden, grant him protection and consequently prevent extradition or rendition by third parties, in recognition of his status as whistleblower and international human rights defender;

Amendment

Or. en

Amendment 70
Beatrix von Storch

Draft motion for a resolution
Paragraph 17 b (new)

Draft motion for a resolution

Amendment

17b. Acknowledges the Snowden revelations, without which the Safe Harbour agreement would likely stand and therefore violate the rights of the peoples of the EU's Member States without their knowledge or consent

Or. en

Amendment 71

Axel Voss, Monika Hohlmeier, Jeroen Lenaers, Michał Boni

Draft motion for a resolution
Paragraph 18

Draft motion for a resolution

Amendment

18. Stresses that the European Parliament should have ***full*** access to ***any relevant document*** related to the joint annual review;

18. Stresses that the European Parliament should have access to ***documents*** related to the joint annual review, ***underlines that the access to this documents have to be in accordance with the existing rules on access to documents;***

Or. en