

12.12.2018

B8-0561/1

Amendment 1

Michał Boni

on behalf of the PPE Group

Motion for a resolution

Claude Moraes

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

B8-0561/2018

Motion for a resolution

Recital M

Motion for a resolution

M. whereas the *Commission states that the* Supplementary Rules would be legally binding on any personal information-handling business operator which receives personal data transferred from the EU on the basis of an adequacy decision and is therefore required to comply with those rules and any related rights and obligations, and *that they* would be enforceable by both the PPC and the Japanese courts; *whereas some Japanese experts question whether the Supplementary Rules are binding;*

Amendment

M. whereas the Supplementary Rules would be legally binding on any personal information-handling business operator which receives personal data transferred from the EU on the basis of an adequacy decision and is therefore required to comply with those rules and any related rights and obligations, and would be enforceable by both the PPC and the Japanese courts;

Or. en

12.12.2018

B8-0561/2

Amendment 2

Michal Boni

on behalf of the PPE Group

Motion for a resolution

B8-0561/2018

Claude Moraes

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

Motion for a resolution

Paragraph 7

Motion for a resolution

Amendment

7. Notes that the *material scope of the adequacy finding is not sufficiently defined in Article 1 of the draft implementing decision, owing to the fact that the APPI excludes from its material scope several* categories of business and processing activities; *calls on the Commission to provide further and detailed clarifications on the impact of such exclusions on EU personal data transferred to Japan, and to clearly specify in Article 1 of the draft implementing decision which transfers of EU personal data are covered by the adequacy decision, indicating that for transfers of personal data by manual processing, the processing operations concerned would have to be covered where they are subject to further electronic processing in Japan;*

7. Notes that the categories of business and processing activities *that are excluded from the material scope of the APPI have been expressly excluded from the scope of the adequacy finding;*

Or. en

12.12.2018

B8-0561/3

Amendment 3

Michal Boni

on behalf of the PPE Group

Motion for a resolution

Claude Moraes

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

B8-0561/2018

Motion for a resolution

Paragraph 17

Motion for a resolution

17. Notes with concern that as regards automated decision-making and profiling, differently from EU law, neither the APPI nor the PPC Guidelines contain legal provisions and that only certain sectoral rules address this matter, without providing a comprehensive overall legal framework with substantial and strong protections against automated decision-making and profiling; ***calls on the Commission to demonstrate how this is addressed in the Japanese data protection framework in such a way as to ensure an equivalent level of protection; considers that this is especially relevant given the recent Facebook/Cambridge Analytica profiling cases;***

Amendment

17. Notes with concern that as regards automated decision-making and profiling, differently from EU law, neither the APPI nor the PPC Guidelines contain legal provisions and that only certain sectoral rules address this matter, without providing a comprehensive overall legal framework with substantial and strong protections against automated decision-making and profiling; ***recalls, however, that these sectoral rules concern the sectors in which such types of processing are most relevant in the context of international transfers, such as the financial sector;***

Or. en

Amendment 4**Michal Boni**

on behalf of the PPE Group

Motion for a resolution**B8-0561/2018****Claude Moraes**

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

Motion for a resolution**Paragraph 19***Motion for a resolution**Amendment*

19. *Considers that regarding* onward transfers, *although the combination of the APPI rules and the Supplementary Rules would ensure a level of protection higher than that provided under the APEC CBPR*, the solution provided in the Supplementary Rules, which consists of requiring prior consent on the part of EU data subjects for approval of onward transfer to a third party in a foreign country lacks certain essential elements that would enable data subjects to formulate their consent, as it does not expressly define what is covered by the notion of ‘information on the circumstances surrounding the transfer necessary for the [data subject] to make a decision on his/her consent’, in line with Article 13 of the GDPR, such as the third country of destination of the onward transfer; *notes that in addition, the draft implementing decision does not explain* the consequences for the data subject in case of refusal of consent for onward transfer of his or her personal data;

19. *Invites the Commission to clarify whether, as regards* onward transfers, the solution provided in the Supplementary Rules, which consists of requiring prior consent on the part of EU data subjects for approval of onward transfer to a third party in a foreign country, lacks certain essential elements that would enable data subjects to formulate their consent, as it does not expressly define what is covered by the notion of ‘information on the circumstances surrounding the transfer necessary for the [data subject] to make a decision on his/her consent’, in line with Article 13 of the GDPR, such as the third country of destination of the onward transfer; *invites the Commission to further clarify* the consequences for the data subject in case of refusal of consent for onward transfer of his or her personal data;

Or. en

12.12.2018

B8-0561/5

Amendment 5

Michal Boni

on behalf of the PPE Group

Motion for a resolution

B8-0561/2018

Claude Moraes

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

Motion for a resolution

Paragraph 23

Motion for a resolution

Amendment

23. Notes that under the Japanese Act on the Protection of Personal Information held by Administrative Organs (APPIHAO), business operators can also hand data over to law enforcement authorities on a ‘voluntary basis’; points out that this is not provided for in the GDPR or the Police Directive and is **concerned that it might not be** compliant with the standard of being ‘essentially equivalent’ to the GDPR;

23. Notes that under the Japanese Act on the Protection of Personal Information held by Administrative Organs (APPIHAO), business operators can also hand data over to law enforcement authorities on a ‘voluntary basis’; points out that this is not provided for in the GDPR or the Police Directive and **invites the Commission to assess whether this** is compliant with the standard of being ‘essentially equivalent’ to the GDPR;

Or. en

Amendment 6**Michal Boni**

on behalf of the PPE Group

Motion for a resolution**B8-0561/2018****Claude Moraes**

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

The adequacy of the protection of personal data afforded by Japan

Motion for a resolution**Paragraph 24***Motion for a resolution**Amendment*

24. Is aware of media reports about the Japanese Directorate for Signals Intelligence (DFS), ‘which employs about 1 700 people and has at least six surveillance facilities that eavesdrop around the clock on phone calls, emails, and other communications’¹; **is *worried*** that this element of indiscriminate mass surveillance is not ***even*** mentioned in the draft implementing decision; calls on the Commission to provide more information about Japanese mass surveillance; **is *seriously worried that this mass surveillance will not stand the test of the criteria established by the European Court of Justice in the Schrems judgment (Case C-362/14)***;

¹ Ryan Gallagher, ‘The Untold Story of Japan’s Secret Spy Agency’, The Intercept, 19 May 2018, <https://theintercept.com/2018/05/19/japan-dfs-surveillance-agency/>

24. Is aware of media reports about the Japanese Directorate for Signals Intelligence (DFS), ‘which employs about 1 700 people and has at least six surveillance facilities that eavesdrop around the clock on phone calls, emails, and other communications’¹, **and is *the intelligence agency of the Japanese military forces, whose main task is to monitor, among others, the radio and satellite communications of hostile military forces***; **is *concerned*** that this element of indiscriminate mass surveillance is not mentioned in the draft implementing decision; calls on the Commission to provide more information about Japanese mass surveillance; **notes, however, that the Japanese Government has ruled out any form of mass and indiscriminate collection of and access to personal information handled by a business operator following a transfer**;

¹ Ryan Gallagher, ‘The Untold Story of Japan’s Secret Spy Agency’, The Intercept, 19 May 2018, <https://theintercept.com/2018/05/19/japan-dfs-surveillance-agency/>

Or. en

