Question for written answer E-002815/2021
to the Commission
Rule 138
Sophia in 't Veld (Renew), **Moritz Körner** (Renew)

Subject: UK draft adequacy decision and unlawfulness of immigration exemption

On 26 May 2020, the UK Court of Appeal found that the UK immigration exemption in the Data Protection Act 2018 is incompatible with Article 23 of the General Data Protection Regulation (GDPR), thereby confirming the concerns expressed by the European Parliament[1]. The Commission, however, considered that the exemption was GDPR compatible and did not constitute an obstacle for an adequacy decision enabling data transfers to the UK. It stated that 'as things stand, at this stage, we should go ahead with the adequacy decisions'[2].

1.   Does the Commission agree that the Court of Appeal ruling effectively invalidates the justification for the draft adequacy decision for the UK under the GDPR, and that it should be repealed?

2.   Will the Commission consult the European Data Protection Board on the matter and seek the removal or redrafting of the immigration exemption by the UK authorities, bringing the Data Protection Act fully and unambiguously into line with the GDPR and allowing for essentially equivalent levels of data protection for immigrants, on basis of which a valid adequacy decision may be granted?

3.   Can the Commission explain how it will ensure that data transfers that fall within the scope of the exemption will be immediately suspended, and that there will be no data protection gap as long as the adequacy decision is not in place?

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[1]   European Parliament resolution of 21 May 2021 on the adequate protection of personal data by the United Kingdom (texts adopted, P9_TA(2021)0262), and European Parliament resolution of 12 February 2020 on the proposed mandate for negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland (texts adopted, P9_TA(2020)0033).

[2]   Statement by Commissioner Reynders during debate on the adequate protection of personal data by the United Kingdom, 20 May 2021.