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AMENDMENTS

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Report

Juan Fernando López Aguilar
(PE740.749v01-00)

The adequacy of the protection afforded by the EU-U.S. Data Privacy
Framework

AM_Com_NonLegRD

Amendment 1
Assita Kanko

Draft motion for a resolution
Citation 13

Draft motion for a resolution

— having regard to *the Commission proposal of 10 January 2017 for a regulation* of the European Parliament and of the Council concerning the *respect for private life* and the protection of *personal data in* electronic communications *and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) (COM(2017)0010)*, to the decision to enter into interinstitutional negotiations confirmed by Parliament's plenary on 25 October 2017, and to the Council's general approach adopted on 10 February 2021 (6087/21),

Amendment

— having regard to *Directive 2002/58/EC* of the European Parliament and of the Council *of 12 July 2002* concerning the *processing of personal data* and the protection of *privacy in the* electronic communications *sector*,

Or. en

Amendment 2
Lena Düpont

Draft motion for a resolution
Citation 14

Draft motion for a resolution

— having regard to the European Data Protection Board (EDPB) Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data, and to the EDPB Recommendations 02/2020 on the European Essential Guarantees for surveillance measures,

Amendment

— having regard to *the Adequacy Referential of the Article 29 Working Party (WP 251 rev.01) as endorsed by* the European Data Protection Board (EDPB), *to the EDPB* Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data, and to the EDPB Recommendations 02/2020 on the European Essential Guarantees for surveillance measures,

Or. en

Amendment 3
Lena Düpont

Draft motion for a resolution
Recital A

Draft motion for a resolution

A. whereas in the ‘Schrems I’ judgment, the Court of Justice of the European Union (CJEU) invalidated the Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce⁹, and pointed out that indiscriminate access by intelligence authorities to the content of electronic communications violates the essence of the fundamental right to confidentiality of communications provided for in Article 7 of the Charter;

⁹ OJ L 215, 25.8.2000, p. 7.

Amendment

A. whereas in the ‘Schrems I’ judgment, the Court of Justice of the European Union (CJEU) invalidated the Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce⁹, and pointed out that indiscriminate access by intelligence authorities to the content of electronic communications violates the essence of the fundamental right to confidentiality of communications provided for in Article 7 of the Charter; ***whereas the Court pointed out that, for the purpose of an adequacy decision, a third country does not have to ensure an identical, but "essentially equivalent" level of protection to that guaranteed in EU law, which may be ensured through different means;***

⁹ OJ L 215, 25.8.2000, p. 7.

Or. en

Amendment 4
Assita Kanko

Draft motion for a resolution
Recital A

Draft motion for a resolution

A. whereas in the ‘Schrems I’

Amendment

A. whereas in the ‘Schrems I’

judgment, the Court of Justice of the European Union (CJEU) invalidated the Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce⁹, and pointed out that *indiscriminate* access by intelligence authorities to the content of electronic communications violates the essence of the fundamental right to confidentiality of communications provided for in Article 7 of the Charter;

⁹ OJ L 215, 25.8.2000, p. 7.

judgment, the Court of Justice of the European Union (CJEU) invalidated the Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce⁹, and pointed out that access by intelligence authorities to the content of electronic communications violates the essence of the fundamental right to confidentiality of communications provided for in Article 7 of the Charter *if such access is indiscriminate and not limited by clear and precise rules governing the scope and application of a measure and imposing minimum safeguards*;

⁹ OJ L 215, 25.8.2000, p. 7.

Or. en

Amendment 5

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Recital D a (new)

Draft motion for a resolution

Amendment

D a. Whereas the EDPB opinion on the European Commission Draft Implementing Decision on the adequate protection of personal data under the EU-US Data privacy Framework states that it does not expect the US data protection framework to replicate European data protection law, but rather ensure an “essentially equivalent” level of protection as also confirmed by the ECJ;

Or. en

Amendment 6
Bergur Løkke Rasmussen

Draft motion for a resolution
Recital E

Draft motion for a resolution

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules;

Amendment

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules; ***Whereas, if the US does not enforce data protection regulation in line with the agreement and if a new US administration decides on new rules that compromise the protection of personal data of EU citizens, the Commission can suspend the adequacy when there is no longer equivalence;***

Or. en

Amendment 7
Lena Düpont

Draft motion for a resolution
Recital E

Draft motion for a resolution

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules;

Amendment

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules; ***whereas, if such assessment were to be found unsatisfactory in terms of adequacy and equivalence, the Commission should refrain from establishing an adequacy decision since it is conditional to the implementation;***

Amendment 8**Assita Kanko****Draft motion for a resolution****Recital E***Draft motion for a resolution*

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules;

Amendment

E. whereas, when examining the level of protection afforded by a third country, the Commission is obliged to assess the content of the rules applicable in that country deriving from its domestic law or its international commitments, as well as the practice designed to ensure compliance with those rules; ***whereas this is a continuous process taking into account changes to applicable rules and practice;***

Or. en

Amendment 9**Assita Kanko****Draft motion for a resolution****Recital F***Draft motion for a resolution*

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness; whereas ***these*** transfers should be carried out in full respect for the right to the protection of personal data and the right to privacy; whereas one of the ***fundamental objectives*** of the EU is the protection of fundamental rights, as enshrined in the Charter;

Amendment

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness; whereas ***the EU is currently lagging behind other major economies when it comes to innovation and the digital economy;*** whereas any ***personal data*** transfers should be carried out in full respect for the right to the protection of personal data and the right to privacy; whereas one of the ***aims*** of the EU is ***the promotion of its values, which includes*** the protection of fundamental rights, as enshrined in the Charter;

Amendment 10**Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa****Draft motion for a resolution****Recital F***Draft motion for a resolution*

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness; whereas these transfers should be carried out in full respect for the right to the protection of personal data and the right to privacy; whereas one of the fundamental objectives of the EU is the protection of fundamental rights, as enshrined in the Charter;

Amendment

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness; whereas these transfers should be carried out ***with a level of protection equivalent to that guaranteed in the EU*** in full respect for the right to the protection of personal data and the right to privacy; whereas one of the fundamental objectives of the EU is the protection of fundamental rights, as enshrined in the Charter;

Amendment 11**Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč****Draft motion for a resolution****Recital F***Draft motion for a resolution*

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness; whereas these transfers should be carried out in full respect for the right to the protection of personal data and the right to privacy; whereas one of the fundamental objectives of the EU is the protection of fundamental rights, as enshrined in the Charter;

Amendment

F. whereas the ability to transfer personal data across borders has the potential to be a key driver of innovation, productivity and economic competitiveness ***as long as adequate safeguards are provided***; whereas these transfers should be carried out in full respect for the right to the protection of personal data and the right to privacy; whereas one of the fundamental objectives of the EU is the protection of fundamental rights, as enshrined in the

Amendment 12

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Recital H

Draft motion for a resolution

H. whereas *mass surveillance, including* the bulk collection of data, by state actors is *detrimental to* the trust of European citizens and businesses in digital services and, by extension, in the digital economy;

Amendment

H. whereas *in the general interest of the protection of national or public security* the bulk collection of data *is legal provided that it is sufficiently justified, limited and proportionate to the aim, as confirmed by the EDPB and the Court; whereas, on the other hand, mass surveillance* by state actors is *illegal and impacts* the trust of European citizens and businesses in digital services and, by extension, in the digital economy;

Amendment 13

Assita Kanko

Draft motion for a resolution

Recital H

Draft motion for a resolution

H. whereas mass surveillance, including the bulk collection of data, by state actors is detrimental to the trust of European citizens and businesses in digital services and, by extension, in the digital economy;

Amendment

H. whereas mass surveillance, including the bulk collection of data, by state actors is detrimental to the trust of European citizens and businesses in digital services and, by extension, in the digital economy; *however, acknowledges that bulk collection of data by state actors can be permissible according to European Court of Justice jurisprudence if sufficiently strong safeguards are in place;*

Amendment 14
Lena Düpont

Draft motion for a resolution
Recital H

Draft motion for a resolution

H. whereas mass surveillance, ***including the bulk collection of data***, by state actors is detrimental to the trust of European citizens and businesses in digital services and, by extension, in the digital economy;

Amendment

H. whereas mass surveillance by state actors is detrimental to the trust of European citizens and businesses in digital services and, by extension, in the digital economy;

Or. en

Amendment 15
Lena Düpont

Draft motion for a resolution
Recital H a (new)

Draft motion for a resolution

H a. whereas previous jurisprudence of the European Court of Human Rights acknowledges that bulk interception to protect national security and other essential national interests against serious external threats is not prohibited, and States enjoy a margin of appreciation in deciding what type of interception regime is necessary;

Amendment

Or. en

Amendment 16
Assita Kanko

Draft motion for a resolution
Recital J

Draft motion for a resolution

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the EU and the US have differing definitions of key data protection concepts such as principles of necessity and proportionality;

Amendment

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the EU and the US have differing definitions of key data protection concepts such as principles of necessity and proportionality; ***whereas, however, the GDPR requires not identical but essentially equivalent personal data protection for adequacy decisions;***

Or. en

Amendment 17

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Recital J

Draft motion for a resolution

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the EU and the US ***have differing*** definitions of key data protection concepts such as principles of necessity and proportionality;

Amendment

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the ***EO supports the convergence between the*** EU and the US ***of the*** definitions of key data protection concepts such as principles of necessity and proportionality ***as supported by the EDPB in its opinion;***

Or. en

Amendment 18

Lena Düpont

Draft motion for a resolution

Recital J

Draft motion for a resolution

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the ***EU and the US have differing*** definitions of ***key data protection concepts such as***

Amendment

J. whereas there is no federal privacy and data protection legislation in the United States (US); whereas the ***new EO introduces*** definitions of principles of necessity and proportionality ***in line with***

principles of necessity and proportionality;

those used in the EU legal system;

Or. en

Amendment 19
Gwendoline Delbos-Corfield

Draft motion for a resolution
Recital J a (new)

Draft motion for a resolution

Amendment

J a. whereas, while the US provides for a new mechanism for remedy for issues related to public authorities' access to data, the remedies available for commercial matters under the adequacy decision are insufficient; notes that these issues are largely left at the discretion of companies which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies' privacy programs;

Or. en

Amendment 20
Cornelia Ernst

Draft motion for a resolution
Recital J a (new)

Draft motion for a resolution

Amendment

J a. whereas the Charter does not discriminate by citizenship or residence when it comes to the rights to privacy and data protection;

Or. en

Amendment 21
Lena Düpont

Draft motion for a resolution
Paragraph 1

Draft motion for a resolution

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights and not against commercial or political interests;

Amendment

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights and not against commercial or political interests; ***whereas, according to consolidated case law of the Court of Justice of the European Union and the European Court of Human Rights, fundamental rights can be balanced against objectives of general interest, such as the protection of national security, provided that any limitation to the rights and freedoms of individuals is necessary and proportionate to meet such objectives;***

Or. en

Amendment 22

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

Draft motion for a resolution
Paragraph 1

Draft motion for a resolution

1. Recalls that ***privacy and data*** protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights and not against

Amendment

1. Recalls that ***the respect for private and family life and the protection of personal data*** are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against

commercial or political interests;

other fundamental rights and not against commercial or political interests;

Or. en

Amendment 23
Cornelia Ernst

Draft motion for a resolution
Paragraph 1

Draft motion for a resolution

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that **they must be applied in a manner that does not unnecessarily hamper trade or international relations, but** can be balanced only against other fundamental rights and not against commercial or political interests;

Amendment

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that **adequacy decisions under the GDPR are legal decisions, not political choices and that the rights to privacy and data protection** can be balanced only against other fundamental rights and not against commercial or political interests;

Or. en

Amendment 24
Assita Kanko

Draft motion for a resolution
Paragraph 1

Draft motion for a resolution

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights **and not against**

Amendment

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights;

commercial or political interests;

Or. en

Amendment 25

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Paragraph 1

Draft motion for a resolution

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights ***and not against commercial or political interests;***

Amendment

1. Recalls that privacy and data protection are legally enforceable fundamental rights enshrined in the Treaties, the Charter and the European Convention of Human Rights, as well as in laws and case-law; emphasises that they must be applied in a manner that does not unnecessarily hamper trade or international relations, but can be balanced only against other fundamental rights ***such as the right to security;***

Or. en

Amendment 26

Assita Kanko

Draft motion for a resolution

Paragraph 2

Draft motion for a resolution

2. Acknowledges the ***efforts made*** in the EO to lay down limits on US Signals Intelligence Activities, by ***referring to*** the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, ***however,*** that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO are ***not*** in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for

Amendment

2. Acknowledges the ***significant steps taken*** in the EO to lay down limits on US Signals Intelligence Activities, by ***introducing*** the principles of proportionality and necessity ***into the US legal framework on signals intelligence,*** and providing a list of legitimate objectives for such activities; ***notes that these principles will be binding on all US intelligence agencies and can be invoked by data subjects;*** points out that these principles are long-standing key elements

the purposes of the EU-US Data Privacy Framework, these principles will be interpreted **solely** in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, **which appears to be a broad interpretation of proportionality**;

of the EU data protection regime and that **questions remain whether** their substantive definitions in the EO are in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’ **and that questions remain with regards to the interpretation of this concept**;

Or. en

Amendment 27
Lena Düpont

Draft motion for a resolution
Paragraph 2

Draft motion for a resolution

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key elements of the EU data protection regime **and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions**; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which **appears to be a broad interpretation of proportionality**;

Amendment

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles **which** are long-standing key elements of the EU data protection regime, **will have to be operationalised and implemented**, in the **policies and procedures of US intelligence agencies within one year; notes that the EU lists 12 legitimate objectives that may be pursued when conducting signals intelligence collection and 5 objectives for which signals intelligence collection is prohibited; notes that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public**; points out that the EO requires that signals intelligence must be

conducted in a manner *necessary and proportionate* to the ‘validated intelligence priority’, which *further justifies the purpose for which intelligence collection may take place*;

Or. en

Amendment 28
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 2

Draft motion for a resolution

2. *Acknowledges* the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of proportionality;

Amendment

2. *Takes note of* the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of proportionality; *is concerned that it is not a requirement that analysts conduct a proportionality assessment for each surveillance decision*;

Or. en

Amendment 29
Cornelia Ernst

Draft motion for a resolution
Paragraph 2

Draft motion for a resolution

2. **Acknowledges the efforts** made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of proportionality;

Amendment

2. **Takes note of the changes** made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of **12** legitimate objectives for such activities; points out, however, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; **further points out that the US President can, in secret, add new ‘legitimate objectives’ to this list**; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a **very** broad interpretation of proportionality;

Or. en

Amendment 30

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemec

Draft motion for a resolution
Paragraph 2

Draft motion for a resolution

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key

Amendment

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, however, that these principles are long-standing key

elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of proportionality;

elements of the EU data protection regime and that their substantive definitions in the EO are not in line with their definition under EU law and their interpretation by the CJEU; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted solely in the light of US law and legal traditions, ***not those of the EU, and that the Data Protection Review Court’s interpretations will not be made public***; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of proportionality;

Or. en

Amendment 31

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Paragraph 2

Draft motion for a resolution

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, ***however***, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO ***are not in line with their definition under EU law and their interpretation by the CJEU***; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted ***solely*** in the light of US law and legal traditions; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of

Amendment

2. Acknowledges the efforts made in the EO to lay down limits on US Signals Intelligence Activities, by referring to the principles of proportionality and necessity, and providing a list of legitimate objectives for such activities; points out, that these principles are long-standing key elements of the EU data protection regime and that their substantive definitions in the EO ***provides for significant improvements to ensure that they are adequately equivalent*** under EU law; points out, furthermore, that for the purposes of the EU-US Data Privacy Framework, these principles will be interpreted in the light of US law and legal traditions ***as is the case with adequacy decisions***; points out that the EO requires that signals intelligence must be conducted in a manner proportionate to the ‘validated intelligence priority’, which appears to be a broad interpretation of

proportionality;

proportionality;

Or. en

Amendment 32
Bergur Løkke Rasmussen

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

Amendment

3. *Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;*

deleted

Or. en

Amendment 33
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

Amendment

3. Regrets the fact that the EO **does not prohibit** the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, **who can determine not to make the relevant updates public;**

3. Regrets the fact that the EO **still provides for** the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, **notes that the EO limits the purposes of bulk collection to twelve legitimate purposes and four prohibited purposes; points out that the EO explicitly provides for amendments and expansion of the legitimate purposes by a secret EO; underlines that already the twelve purposes foreseen now are extremely broad; reminds that in "Schrems II", the**

Court explained that US surveillance failed to satisfy EU law because it failed to require an “objective criterion” “capable of justifying” the government interference with privacy;

Or. en

Amendment 34
Cornelia Ernst

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

3. Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;

Amendment

3. **Deeply** regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes **with concern** that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public; **Notes therefore that the executive order does allow for disproportionate bulk collection of data, including the content of communications, leading to serious discrepancies in the understanding of the requirement of necessity and proportionality;**

Or. en

Amendment 35
Lena Düpont

Draft motion for a resolution
Paragraph 3

Draft motion for a resolution

3. **Regrets the fact** that the EO **does not prohibit** the bulk collection of data by signals intelligence, including the content of communications; **notes** that the **list of**

Amendment

3. **Notes** that the EO **allows** the bulk collection of data by signals intelligence, including the content of communications; **reminds** that the **EO provides that targeted**

legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;

collection should be prioritized over bulk collection; notes that, while the EO contains several safeguards in case of bulk collection, it does not provide for independent prior authorisation for bulk collection, which is also not foreseen under EO 12333;

Or. en

Amendment 36

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemec

Draft motion for a resolution Paragraph 3

Draft motion for a resolution

3. Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, ***who can determine not*** to make the relevant updates public;

Amendment

3. Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be ***amended and*** expanded by the US President ***with no obligation*** to make the relevant updates public ***nor to inform EU counterparts; points out that this would undermine the purpose of the objectives as a safeguard to limit US intelligence activities;***

Or. en

Amendment 37

Moritz Körner, Sophia in 't Veld

Draft motion for a resolution Paragraph 3

Draft motion for a resolution

3. Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of

Amendment

3. Regrets the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of

legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;

legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public; ***is convinced that electronic mass surveillance of EU citizens by US authorities will continue;***

Or. en

Amendment 38

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Paragraph 3

Draft motion for a resolution

3. ***Regrets*** the fact that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;

Amendment

3. ***Notes*** the fact that the EO does not prohibit the bulk collection of data by signals intelligence ***in certain justified cases***, including the content of communications ***in line with ECJ rulings***; notes that the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;

Or. en

Amendment 39

Assita Kanko

Draft motion for a resolution

Paragraph 3

Draft motion for a resolution

3. ***Regrets the fact*** that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that ***the list of legitimate national security objectives can be expanded by the US President, who can determine not to make the relevant updates public;***

Amendment

3. ***Notes*** that the EO does not prohibit the bulk collection of data by signals intelligence, including the content of communications; notes that ***CJEU jurisprudence also does not prohibit the bulk collection of data by signals intelligence but that safeguards and conditions apply;***

Amendment 40

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemec

Draft motion for a resolution

Paragraph 3 a (new)

Draft motion for a resolution

Amendment

3 a. Stresses the EDPB's concerns over the EO's failure to provide safeguards in bulk data collection, namely the lack of independent prior authorisation, lack of clear and strict data retention rules and lack of stricter safeguards concerning dissemination of data collected in bulk; points particularly to the specific concern that without further restrictions on dissemination to US authorities, law enforcement authorities will be enabled to access data they would otherwise have been prohibited from collecting;

Or. en

Amendment 41

Gwendoline Delbos-Corfield

Draft motion for a resolution

Paragraph 3 a (new)

Draft motion for a resolution

Amendment

3 a. Takes note that the draft adequacy decision tries to manoeuvre around this by playing word-games with "bulk" and "mass" surveillance, which does not change the practice of mass surveillance;

Or. en

Amendment 42

Gwendoline Delbos-Corfield

**Draft motion for a resolution
Paragraph 3 b (new)**

Draft motion for a resolution

Amendment

3 b. Does not expect the EO will change the scope of US surveillance in practice; reminds that after Presidential Policy Directive (PPD) 28, which formed the basis for the "Privacy Shield" adequacy decision, the Privacy and Civil Liberties Oversight Board (PCLOB) issued a review report [1] and concluded that PPD-28 had essentially memorialized what the intelligence community was already doing before; expects the same conclusion under the new EO as well;

**[1]
[https://documents.pclob.gov/prod/Documents/OversightReport/caec5956-e1e4-4d11-a840-6e13114962c1/PPD-28%20Report%20\(for%20FOIA%20Release\)%20-%20Completed%20508%20-%2012082022.pdf](https://documents.pclob.gov/prod/Documents/OversightReport/caec5956-e1e4-4d11-a840-6e13114962c1/PPD-28%20Report%20(for%20FOIA%20Release)%20-%20Completed%20508%20-%2012082022.pdf)**

Or. en

Amendment 43

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

**Draft motion for a resolution
Paragraph 3 b (new)**

Draft motion for a resolution

Amendment

3 b. Shares the concern of the EDPB regarding the use of temporary bulk data collection as an additional ground for collecting data in bulk; is particularly concerned over the vaguely defined notion of "temporarily" in this context, and the fact that the safeguards concerning bulk data collection provided by the EO would not apply when data is collected in bulk

temporarily;

Or. en

Amendment 44

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

Draft motion for a resolution

Paragraph 3 c (new)

Draft motion for a resolution

Amendment

3 c. Reminds that onward transfers effectively multiply the risks to the protection of data and notes that the EDPB has called for the inclusion of a legally binding obligation to analyse and determine whether the third country offers an acceptable minimum level of safeguards while taking into account the effect of any existing international agreements that may provide for the transfer of personal data by intelligence services;

Or. en

Amendment 45

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

Draft motion for a resolution

Paragraph 3 d (new)

Draft motion for a resolution

Amendment

3 d. Shares the calls from the EDPB that the entry into force and adoption of the adequacy decision be conditional upon, inter alia, the adoption of updated policies and procedures to implement the EO by all US intelligence agencies; calls on the Commission to assess these updated policies and procedures and share its assessment with the European

Amendment 46

Lena Düpont

Draft motion for a resolution

Paragraph 4

Draft motion for a resolution

Amendment

4. Points out that the EO does not apply to data accessed by public authorities via other means, for example through the US Cloud Act or the US Patriot Act, by commercial data purchases, or by voluntary data sharing agreements;

deleted

Amendment 47

Gwendoline Delbos-Corfield

Draft motion for a resolution

Paragraph 4 a (new)

Draft motion for a resolution

Amendment

4 a. Understands that in the US interpretation, “signals intelligence” covers all data access methods provided for in the Foreign Intelligence Surveillance Act (FISA), including from “remote computing service” providers added with the FISA Amendment Act §1881a in 2008; calls on the Commission to clarify the definition and scope of “signals intelligence” in the U.S. legal meaning;

Amendment 48
Assita Kanko

Draft motion for a resolution
Paragraph 4 a (new)

Draft motion for a resolution

Amendment

4 a. *Points out that a new redress mechanism has been created allowing EU data subjects to lodge a complaint, free of charge and without having to prove that their personal data was processed as part of surveillance activities;*

Or. en

Amendment 49
Cornelia Ernst

Draft motion for a resolution
Paragraph 4 a (new)

Draft motion for a resolution

Amendment

4 a. *Points out that the EO as a result fails to create actual equivalence in the level of protection, but merely paints over the differences;*

Or. en

Amendment 50
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 4 b (new)

Draft motion for a resolution

Amendment

4 b. *Reminds that under FISA Section 702, the U.S. government still claims the power to target any non-U.S. person abroad to obtain foreign intelligence, broadly defined;*

Amendment 51

Lena Düpont

Draft motion for a resolution

Paragraph 5

Draft motion for a resolution

5. Points out that ***the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC*** is part of the executive branch and not the judiciary; ***points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence;*** points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, ***thereby undermining their right to access or rectify their data;*** notes that ***the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;***

Amendment

5. Points out that the Data Protection Review Court (***DPRC***) is part of the executive branch and not the judiciary; ***notes, however, that only an administrative body within executive branch can enjoy both requisite independence and overcome standing requirement applicable to US federal courts; considers that EO 14086 foresees several guarantees to ensure the independence of DPRC judges, as also recognised by the EDPB in its opinion; calls on the Commission to closely monitor the application of these safeguards for independence in practice; recognises that the DPRC will adopt reasoned decision; notes, however, that the decisions of the DPRC will be classified and not made public; notes that the complainant will be informed that "the review either did not identify any covered violations or the DPRC issued a determination requiring appropriate remediation"***; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed; notes, ***however,*** that the complainant ***will be notified if the information included in the decision of the DPRC has been declassified; points out that a complainant will be represented by a 'special advocate' designated by the DPRC; points out that the DPRC has the power to access all necessary information and to remedy violations (e.g. to order the deletion of data); notes that the PCLOB will independently review the functioning***

of the new redress mechanism; points out that the new redress mechanism does not allow for the US Attorney General to dismiss and supervise the DPRC Judges; calls on the Commission to closely monitor this new framework;

Or. en

Amendment 52
Bergur Løkke Rasmussen

Draft motion for a resolution
Paragraph 5

Draft motion for a resolution

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; ***points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence***; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; ***notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages***; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;

Amendment

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;

Or. en

Amendment 53
Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution
Paragraph 5

Draft motion for a resolution

5. Points out **that** the decisions of the Data Protection Review Court ('DPRC') **will** be classified and **not** made public or available to the complainant; **points out that the DPRC is part of the executive branch and not the judiciary; points out that** a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there **is no** requirement of independence; **points out that** the redress process provided by the EO is based on secrecy and **does not** set up an obligation to notify the complainant that their personal data has been processed, thereby **undermining** their right to access or rectify their data; **notes that** the proposed redress process **does not** provide for an avenue for appeal in a federal court and therefore, among other things, **does not provide any** possibility for the complainant to claim damages; **concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;**

Amendment

5. Points out **the room for improvement on the following procedures and calls on the Commission to improve them in its final adequacy draft decision :**

-the decisions of the Data Protection Review Court ('DPRC') **shall not** be classified and **shall be** made public or available to the complainant;

-a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there **shall be a** requirement of independence;

- the redress process provided by the EO is based on secrecy and **it shall** set up an obligation to notify the complainant that their personal data has been processed, thereby **ensuring** their right to access or rectify their data; - the proposed redress process **shall** provide for an avenue for appeal in a federal court and therefore, among other things, possibility for the complainant to claim damages;

Amendment 54
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 5

Draft motion for a resolution

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;

Amendment

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; ***meaning that and a person bringing a case will have no chance of being informed about the substantive outcome of the case;*** points out that the DPRC is part of the executive branch and not the judiciary; ***its judges are appointed for only four years and can be removed by the US President at will; and the President can overrule its decisions, even in secret;*** points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;

Amendment 55
Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul

Tang, Matjaž Nemec

**Draft motion for a resolution
Paragraph 5**

Draft motion for a resolution

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter;

Amendment

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant **and that they will be final and non-appealable with the DPRC**; points out that the DPRC is part of the executive branch and not the judiciary; **stresses that it should be prohibited for the US President to remove DPRC judges and calls on the Commission to clarify this matter**; points out that a complainant will be represented by a 'special advocate' designated by the DPRC, for whom there is no requirement of independence; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby undermining their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC does not meet the standards of independence and impartiality of Article 47 of the Charter **and that it is not compatible with the basic principles of justice and due process**;

Or. en

**Amendment 56
Assita Kanko**

**Draft motion for a resolution
Paragraph 5**

Draft motion for a resolution

Amendment

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; points out that a complainant will be represented by a 'special advocate' designated by the DPRC, **for whom there is no requirement of independence**; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby **undermining** their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that the DPRC **does not meet** the standards of independence and impartiality of Article 47 of the Charter;

5. Points out that the decisions of the Data Protection Review Court ('DPRC') will **be binding; notes that the decisions will also** be classified and not made public or available to the complainant; points out that the DPRC is part of the executive branch and not the judiciary; points out, **however, that the DPRC Judges shall have an independent mandate**; points out that a complainant will be represented by a 'special advocate' designated by the DPRC; points out that the redress process provided by the EO is based on secrecy and does not set up an obligation to notify the complainant that their personal data has been processed, thereby **weakening** their right to access or rectify their data; notes that the proposed redress process does not provide for an avenue for appeal in a federal court and therefore, among other things, does not provide any possibility for the complainant to claim damages; concludes that **questions remain regarding the functioning of the DPRC and whether it meets** the standards of independence and impartiality of Article 47 of the Charter;

Or. en

Amendment 57

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Paragraph 6

Draft motion for a resolution

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, the remedies available for commercial matters under the adequacy decision are **insufficient**; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies'

Amendment

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, the remedies available for commercial matters under the adequacy decision are **unchanged**; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies' privacy programmes; **Calls on the**

privacy programmes;

Commission to closely monitor the effectiveness of these redress mechanisms;

Or. en

Amendment 58
Lena Düpont

Draft motion for a resolution
Paragraph 6

Draft motion for a resolution

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, the remedies available for commercial matters under the adequacy decision ***are insufficient; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies' privacy programmes;***

Amendment

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, the remedies available for commercial matters under the adequacy decision ***remain the same; calls on the Commission to closely monitor the effectiveness of these redress mechanisms;***

Or. en

Amendment 59
Assita Kanko

Draft motion for a resolution
Paragraph 6

Draft motion for a resolution

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, ***the*** remedies available for commercial matters under the adequacy decision ***are insufficient***; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies'

Amendment

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities' access to data, ***questions remain with regards to the effectiveness of*** remedies available for commercial matters under the adequacy decision; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution

privacy programmes;

mechanisms or the use of companies’
privacy programmes;

Or. en

Amendment 60
Bergur Løkke Rasmussen

Draft motion for a resolution
Paragraph 6

Draft motion for a resolution

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities’ access to data, the remedies available for commercial matters under the adequacy decision are *insufficient*; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies’ privacy programmes;

Amendment

6. Notes that, while the US has provided for a new mechanism for remedy for issues related to public authorities’ access to data, the remedies available for commercial matters under the adequacy decision are *ineffective*; notes that these issues are largely left to the discretion of companies, which can select alternative remedy avenues such as dispute resolution mechanisms or the use of companies’ privacy programmes;

Or. en

Amendment 61
Moritz Körner, Sophia in 't Veld

Draft motion for a resolution
Paragraph 6 a (new)

Draft motion for a resolution

Amendment

6 a. Requests that the EO is amended in order to incorporate measures that stipulate that EU citizens shall have the same rights and privileges that US citizens have, when it comes to the activities of the US Intelligence Community and access to US courts;

Or. en

Amendment 62
Cornelia Ernst

Draft motion for a resolution
Paragraph 6 a (new)

Draft motion for a resolution

Amendment

6 a. *Points out that the underlying problem is the surveillance of non-US persons under US law, and the inability for European citizens to seek redress in this regard;*

Or. en

Amendment 63
Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

Draft motion for a resolution
Paragraph 7

Draft motion for a resolution

Amendment

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; notes that continuing uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises;

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; notes that continuing uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises; ***is concerned that the adequacy decision could (like its predecessors) be invalidated by the Court of Justice, leading to a continuing lack of legal certainty, further costs and disruption for European citizens and businesses;***

Or. en

Amendment 64
Cornelia Ernst

Draft motion for a resolution
Paragraph 7

Draft motion for a resolution

7. Notes that European businesses need ***and deserve*** legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; ***notes that continuing uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises;***

Amendment

7. Notes that European businesses need legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses;

Or. en

Amendment 65
Lena Düpont

Draft motion for a resolution
Paragraph 7

Draft motion for a resolution

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; notes ***that continuing uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises;***

Amendment

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; notes ***therefore*** the need to ***ensure legal certainty and avoid a situation that*** is particularly burdensome for micro, small and medium-sized enterprises; ***regrets that the lack of an adequacy decision increases financial and administrative burden;***

Or. en

Amendment 66
Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution

Paragraph 7

Draft motion for a resolution

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; **notes that continuing** uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises;

Amendment

7. Notes that European businesses need and deserve legal certainty; stresses that successive data transfer mechanisms, which were subsequently repealed by the CJEU, created additional costs for European businesses; **acknowledges that legal** uncertainty and the need to adapt to new legal solutions is particularly burdensome for micro, small and medium-sized enterprises;

Or. en

Amendment 67

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemec

Draft motion for a resolution

Paragraph 8

Draft motion for a resolution

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law; points out that the EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President; **is therefore** concerned **about** the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Amendment

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law; points out that the EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President, **who is also empowered to issue secret executive orders; is** concerned **regarding** the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force **after which the Commission would have to make a new determination; is concerned that the lack of a sunset clause in this adequacy decision represents a more lenient approach to the US, despite the fact that the US privacy framework is based on an Executive Order which allows for secret amendments, and which can be amended without consulting Congress or informing**

Amendment 68
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 8

Draft motion for a resolution

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law; points out that the EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President; is therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Amendment

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law, ***and that the federal proposals so far do not meet all the requirements of the GDPR for an adequacy finding; strongly encourages again the US legislator to enact legislation that meets those requirements, and to thereby contribute to ensuring that US law provides an essentially equivalent level of protection to that currently guaranteed in the EU;*** points out that the EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President; is therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Amendment 69
Lena Düpont

Draft motion for a resolution
Paragraph 8

Draft motion for a resolution

8. Points out that, unlike all other third countries that have received an adequacy

Amendment

8. Points out that, unlike all other third countries that have received an adequacy

decision under the GDPR, the US still does not have a federal data protection law; ***points out*** that the EO ***is not clear, precise or foreseeable in its application, as it*** can be amended ***at any time*** by the US President; ***is*** therefore ***concerned about the absence of a sunset clause which could provide that the decision would automatically expire*** four years ***after its entry into force***;

decision under the GDPR, the US still does not have a federal data protection law; ***acknowledges*** that the EO can be amended by the US President; ***expects*** therefore ***the Commission to suspend*** the decision, ***in case the President decides to restrict the safeguards included in the EO***; ***notes that the review of the adequacy finding will take place after one year from the date of the notification of the adequacy decision to the Member States and subsequently at least every four years***; ***calls on the Commission to carry out the subsequent reviews at least every three years, as requested by the EDPB in its opinion***;

Or. en

Amendment 70

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution Paragraph 8

Draft motion for a resolution

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US ***still*** does not have a federal data protection law; ***points out*** that the EO is ***not clear, precise or*** foreseeable in its application, as it can be amended at any time by the US President; ***is*** therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Amendment

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US does not have a federal data protection law; ***points out*** that the EO is foreseeable in its application, as it can be amended at any time by the US President; ***is*** therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force; ***Therefore calls on the Commission to introduce such a clause in case of changes in the US law***;

Or. en

Amendment 71 Assita Kanko

Draft motion for a resolution
Paragraph 8

Draft motion for a resolution

8. ***Points out*** that, unlike all other third countries that have received an adequacy decision under the GDPR, the US *still* does not have a federal data protection law; points out that the ***EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President; is therefore concerned about the absence of a sunset clause which could provide*** that the decision would ***automatically expire four years after its entry into force;***

Amendment

8. ***Notes*** that, unlike all other third countries that have received an adequacy decision under the GDPR, the US does not have a federal data protection law; points out that ***some questions remain with regards to the application and effectiveness of the EO; underlines*** that the ***adequacy decision would be subject to continuous review, taking into account legal and practical developments in the US;***

Or. en

Amendment 72
Cornelia Ernst

Draft motion for a resolution
Paragraph 8

Draft motion for a resolution

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law; points out that the EO is not clear, precise or foreseeable in its application, as it can be amended at any time by the US President; is therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Amendment

8. Points out that, unlike all other third countries that have received an adequacy decision under the GDPR, the US still does not have a federal data protection law; points out that the EO is not clear, precise or foreseeable in its application, as it can be amended ***or withdrawn*** at any time by the US President; is therefore concerned about the absence of a sunset clause which could provide that the decision would automatically expire four years after its entry into force;

Or. en

Amendment 73
Cornelia Ernst

Draft motion for a resolution
Paragraph 8 a (new)

Draft motion for a resolution

Amendment

8 a. *Underlines the fact that the possibility for the US President to modify the effect of the EO through acts that are not public, and not even made available to the Commission and the CJEU, put into question whether the EO meets the requirements of “law” as understood by European courts and a prerequisite for limitations to fundamental rights;*

Or. en

Amendment 74
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 8 a (new)

Draft motion for a resolution

Amendment

8 a. *Notes that the Data Privacy Framework principles issued by the US Department of Commerce have not undergone sufficient amendments, in comparison to those under the Privacy Shield, to provide essentially equivalent protection to that provided under the General Data Protection Regulation (GDPR);*

Or. en

Amendment 75
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 8 b (new)

Draft motion for a resolution

Amendment

8 b. *Underlines the concerns of the*

*European Data Protection Board
regarding the rights of data subjects, the
absence of key definitions and specific
rules on automated decision-making and
profiling, the lack of clarity about the
application of the DPF principles to
processors, the need not to undermine the
level of protection by onward transfers,*

Or. en

Amendment 76
Cornelia Ernst

Draft motion for a resolution
Paragraph 8 b (new)

Draft motion for a resolution

Amendment

8 b. *Reminds that the Commission
when assessing the adequacy of a third
country based on legislation and practices
in place not only in substance but also in
practice as established under Schrems I,
Schrems II and the GDPR;*

Or. en

Amendment 77
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 8 c (new)

Draft motion for a resolution

Amendment

8 c. *Is concerned about the exemptions
for not having to adhere to the DPF
Principles; stresses the importance of
effective redress, oversight and
enforcement;*

Or. en

Amendment 78
Cornelia Ernst

Draft motion for a resolution
Paragraph 9

Draft motion for a resolution

9. Emphasises that adequacy decisions must include clear and strict mechanisms for monitoring and review in order to ensure that decisions are future proof and that EU citizens' fundamental right to data protection is guaranteed;

Amendment

9. Emphasises that adequacy decisions must include clear and strict mechanisms for monitoring and review in order to ensure that decisions are future proof ***or repealed or amended as necessary***, and that EU citizens' fundamental right to data protection is guaranteed ***at all times***;

Or. en

Amendment 79
Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution
Paragraph 9 a (new)

Draft motion for a resolution

Amendment

9 a. Calls on the Commission to monitor the proper implementation of the data protection rights as stated in the EO, especially as regards to the US agencies, who have until October 2023 to comply with the protection norms set in the executive order;

Or. en

Amendment 80
Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemeč

Draft motion for a resolution
Paragraph 10

Draft motion for a resolution

Amendment

10. Recalls that, in its resolution of 20

10. Recalls that, in its resolution of 20

May 2021, Parliament called on the Commission not to adopt any new adequacy decision in relation to the US, unless meaningful reforms were introduced, in particular for national security and intelligence purposes;

May 2021, Parliament called on the Commission not to adopt any new adequacy decision in relation to the US, unless meaningful reforms were introduced, in particular for national security and intelligence purposes; ***reiterates that the Commission should not leave proper enforcement of EU data protection law to the Court of Justice of the European Union following complaints by individual citizens;***

Or. en

Amendment 81
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 10

Draft motion for a resolution

10. Recalls that, in its resolution of 20 May 2021, Parliament called on the Commission not to adopt any new adequacy decision in relation to the US, unless meaningful reforms were introduced, in particular for national security and intelligence purposes;

Amendment

10. Recalls that, in its resolution of 20 May 2021, Parliament called on the Commission not to adopt any new adequacy decision in relation to the US, unless meaningful reforms were introduced, in particular for national security and intelligence purposes; ***does not consider the Executive Order issued by President Biden on 7th October 2022 as meaningful enough;***

Or. en

Amendment 82
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 10 a (new)

Draft motion for a resolution

10 a. Recalls that the European Commission must assess the adequacy of a third country based on legislation and

practices in place not only in substance but also in practice as established under Schrems I, Schrems II and the GDPR (recital 104);

Or. en

Amendment 83
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 10 b (new)

Draft motion for a resolution

Amendment

10 b. Notes that while the US is making important commitment to improve access to remedy and rules on data processing by public authorities, the US Intelligence Community has until October 2023 to update their policies and practices in line the commitment of the EO (see adequacy decision recital 120) and that the US Advocate General has yet to name the EU and its Members States as qualifying countries to be eligible to access the remedy avenue available under the DPRC; underlines that this means that the Commission was not able to assess “in practice” the effectiveness of the proposed remedies and proposed measures on access to data; therefore, calls on the Commission to only proceed with next step of any adequacy decision once these deadlines and milestones have first been completed by the US to ensure that the commitments have been delivered in practice; in the event that all aspects are sufficiently addressed, points at the EDPB recommendation to conduct reviews every three years;

Or. en

Amendment 84
Lena Düpont

Draft motion for a resolution
Paragraph 11

Draft motion for a resolution

Amendment

11. Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; urges the Commission not to adopt the adequacy finding;

deleted

Or. en

Amendment 85
Cornelia Ernst

Draft motion for a resolution
Paragraph 11

Draft motion for a resolution

Amendment

11. Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; urges the Commission not to adopt the adequacy finding;

11. Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection; ***believes that the adequacy finding is unlikely to satisfy the CJEU, should it be brought before them***; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; urges the Commission not to adopt the adequacy finding;

Or. en

Amendment 86

Assita Kanko

Draft motion for a resolution

Paragraph 11

Draft motion for a resolution

11. Concludes that the EU-US Data Privacy Framework ***fails to create actual equivalence in the level of protection***; calls on the Commission to continue negotiations with its US counterparts ***with the aim of creating a mechanism that would ensure such equivalence and which would provide the*** adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; ***urges the Commission not to adopt the adequacy finding***;

Amendment

11. Concludes that ***questions remain with regards to*** the EU-US Data Privacy Framework; calls on the Commission to ***clarify and if necessary*** continue negotiations with its US counterparts ***in order to*** ensure equivalence and ***an*** adequate level of protection ***of personal data as*** required by Union data protection law and the Charter as interpreted by the CJEU;

Or. en

Amendment 87

Gwendoline Delbos-Corfield

Draft motion for a resolution

Paragraph 11

Draft motion for a resolution

11. Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; urges the Commission not to adopt the adequacy finding;

Amendment

11. Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; urges the Commission not to adopt the adequacy finding; ***urges the Commission to not make the same mistake three times***;

Amendment 88

Marina Kaljurand, Birgit Sippel, Juan Fernando López Aguilar, Petar Vitanov, Paul Tang, Matjaž Nemec

Draft motion for a resolution**Paragraph 11***Draft motion for a resolution*

11. Concludes that the EU-US Data Privacy Framework fails to create **actual** equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; **urges** the Commission not to adopt the adequacy finding;

Amendment

11. Concludes that the EU-US Data Privacy Framework fails to create **essential** equivalence in the level of protection; calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; **calls on** the Commission not to adopt the adequacy finding;

Amendment 89

Fabienne Keller, Malik Azmani, Maite Pagazaurtundúa

Draft motion for a resolution**Paragraph 11***Draft motion for a resolution*

11. **Concludes that the EU-US Data Privacy Framework fails to create actual equivalence in the level of protection;** calls on the Commission to continue negotiations with its US counterparts with the aim of creating a mechanism **that would ensure such equivalence and** which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; **urges** the

Amendment

11. Calls on the Commission to continue negotiations with its US counterparts **in order to include the remarks for improvement listed in this resolution and in the opinion of the EDPB** with the aim of creating a mechanism which would provide the adequate level of protection required by Union data protection law and the Charter as interpreted by the CJEU; **urges** the Commission **to amend its draft** adequacy

Commission *not to adopt the adequacy finding*;

decision accordingly;

Or. en

Amendment 90
Moritz Körner, Sophia in 't Veld

Draft motion for a resolution
Paragraph 11 a (new)

Draft motion for a resolution

Amendment

11 a. Believes that the Commission should only adopt the adequacy finding when the Commission-President is ready to personally guarantee that the adequacy decision will not be overturned by the CJEU; expects the Commission-President to step down if the CJEU for the third time finds the Commission's efforts to safeguard the citizens' fundamental rights to be insufficient and consequently invalidates the Commission's Implementing Decision;

Or. en

Amendment 91
Lena Düpont

Draft motion for a resolution
Paragraph 11 a (new)

Draft motion for a resolution

Amendment

11 a. Calls on the Commission to assure EU businesses and citizens that the adequacy decision will provide a solid, sufficient and future-oriented legal basis for EU-US data transfers; underlines the importance of making sure that this adequacy decision will be deemed acceptable if reviewed by the CJEU and stresses that recommendations made in the EDPB opinion should therefore be

taken on board;

Or. en

Amendment 92
Gwendoline Delbos-Corfield

Draft motion for a resolution
Paragraph 11 a (new)

Draft motion for a resolution

Amendment

11 a. Expects any adequacy decision, if adopted, to be challenged at the Court of Justice again; expects serious consequences within and by the Commission in the predictable scenario that the adequacy decision will again be invalidated by the Court;

Or. en