

Press release of the conference of the independent data protection supervisory authorities of the federal and state governments of March 1, 2023

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data protection

press release

European Data Protection Board comments on the draft adequacy decision on the EU-U.S. Data Privacy FrameworkThe European Data Protection Board (EDPB) yesterday adopted an opinion on the European Commission's draft adequacy decision on the EU-US Data Privacy Framework (EU-US Data Privacy Framework). In it, he welcomes major improvements such as the introduction of necessity and proportionality requirements for intelligence data collection in the US and the new redress mechanism for EU data subjects. At the same time, the EDPB expresses concerns and asks for clarifications on several points. These relate in particular to certain rights of data subjects, the onward transmission of personal data, the scope of the exceptions, the temporary bulk collection of data and the practical functioning of the legal remedy mechanism. dr H. c. Marit Hansen, Chairwoman of the DSK: "The data of many EU citizens are transmitted to the USA. For comprehensive protection of fundamental rights, it is important that the level of protection in these cases is equivalent to the level of data protection guaranteed in the EU. The European Data Protection Board, with the participation of German supervisory authorities, has in the EU-U.S. The level of protection described in the Data Privacy Framework has been carefully checked. I welcome the progress that has been made and hope that the remaining open points that we have identified together will now also be clarified. Background: In December 2022, the European Commission published the draft decision on the adequacy of the level of protection of personal data according to the EU □U.S. Data Privacy Framework. The draft decision creates a new data protection framework between the EU and the US, which is intended to replace the previous US adequacy decision (Privacy Shield). The latter was invalidated by the ECJ in its judgment in the Schrems II case in July 2020. The draft decision of the European Commission follows measures taken by the US government in October 2022. This includes in particular the executive order on improving guarantees for US signals espionage activities (Executive Order (EO) 14086). These measures were intended to solve the two main problems identified in the Schrems II judgment, namely the lack of proportionality and the lack of effective remedies in the US with regard to surveillance measures. The EDPB sees significant improvements in these points through Executive Order (EO) 14086. The EO introduces the concepts of necessity and proportionality with regard to

the intelligence collection of data by the USA (Signals Intelligence). In addition, the new redress mechanism creates rights for EU citizens and is subject to scrutiny by the Privacy and Civil Liberties Oversight Board (PCLOB). The EDPB emphasizes that the practical application of the newly introduced principles of necessity and proportionality must be closely monitored. Further clarity is also needed in relation to temporary bulk collection and further storage and dissemination of the data collected in bulk. The EDPB also raises concerns about the lack of prior approval by an independent authority for bulk data collection under Executive Order 12333 and the lack of a systematic independent ex-post review by a court or equivalent independent body. The EDPB Opinion is published at: https://edpb.europa.eu/our-work-tools/our-documents/opinion-art-70/opinion-52023-european-commission-draft-implementing_en Further information on the data protection conference, the merger of the independent German data protection supervisory authorities of the federal and state governments, is available at:

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