

European Commissioner Seeks Higher Data Protection under Revised U.S. Safe Harbour

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An exchange of views between the European Parliament and Mrs. Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality, revealed ongoing negotiations between the Commission and the U.S. Department of Commerce for a revised Safe Harbour agreement to allow data from the European Union to be processed in the U.S. The exchange took place at a meeting of the European Parliament's Committee for Civil Liberties, Justice and Home Affairs Committee in Strasbourg on Monday, 26 October.

Mrs. Jourová informed the Parliament that a Working Party comprising the European Data Protection Authorities (DPAs), convened to discuss the ECJ ruling and a revised Safe Harbour, had confirmed the continuing availability of other tools allowing for data transfer and processing, including standard contractual clauses and binding corporate rules. She noted, however, that the DPAs were in the process of evaluating the potential impact of the *Schrems* judgement on those other tools. The Commission will publish an explanatory communication concerning the *Schrems* judgement shortly. The Commissioner asked for the Parliament's support in convincing Washington to provide greater security under a revised Safe Harbour that would move from a self-regulated approach to more oversight through regulatory controls, back up by enforcement and sanctions provisions.

In response to questions by European Parliamentarians, Mrs. Jourová stressed that the ongoing discussions with Washington were unrelated to and did not impact the position of the Commission on TTIP, as data protection is not part of that negotiation. When asked whether a revised Safe Harbour would require changes in U.S. legislation, timeframes, and how the Commission intended to deal with the transitional period, the Commissioner responded that better controls would include more precise descriptions of the limitations under which intelligence agencies would have access to data and, among other things, annual reviews conducted by state authorities. Mrs. Jourová also indicated that the Commission was continuing to work on an urgent basis on a data protection reform package that would safeguard fundamental rights while creating greater legal certainty by replacing the differing approaches of the 28 Member States.

The European Commission will meet with U.S. authorities in mid-November and will report back to the European Parliament on 10 December. Mrs. Jourová stated that if a solution is not found for a revised Safe Harbour with U.S. authorities by the end of January 2016, the DPAs of the EU Member States would take all necessary steps, including bringing enforcement actions.