



DEPARTMENT OF JUSTICE

[Attorney General Order No. 4381-2019]

Judicial Redress Act of 2015; Attorney General Designations

AGENCY: Office of the Attorney General; United States Department of Justice.

ACTION: Notice of designation by the Attorney General of a “covered country.”

SUMMARY: In accordance with the Judicial Redress Act of 2015, relating to the extension of certain Privacy Act remedies to citizens of designated countries, notice is given that the Attorney General has designated the United Kingdom as a “covered country.”

DATES: The designation herein is effective on April 1, 2018, the date the U.S.-EU Data Protection and Privacy Agreement becomes applicable to the United Kingdom.

FOR FURTHER INFORMATION CONTACT: Thomas Burrows, Associate Director, Office of International Affairs, Criminal Division, United States Department of Justice, 1301 New York Avenue, Suite 900, Washington, DC, 20005, 202-514-0080.

SUPPLEMENTARY INFORMATION:

On February 1, 2017, an executive agreement entered into force between the United States (“U.S.”) and the European Union (“EU”) (collectively, “Parties”) for the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offenses. The agreement, commonly known in the United States as the Data Protection and Privacy Agreement (“DPPA”), establishes a set of protections that the Parties are to apply to personal information exchanged for the purpose of preventing, detecting, investigating, or prosecuting criminal offenses. Article 19 of the DPPA establishes an obligation for the Parties to provide, in their domestic law, specific judicial redress rights to each other’s citizens. The

Judicial Redress Act, Public Law 114-126, 130 Stat. 282 (5 U.S.C. 552a note), is implementing legislation for Article 19.

Under Article 27 of the DPPA, Denmark, Ireland, and the United Kingdom (“UK”) are excluded from the Agreement unless the European Commission (“EC”) notifies the U.S. that those countries have decided that the Agreement shall apply to them. Such notice was provided for Ireland in January 2017, and it was designated at the same time as 25 other EU members.

On March 9, 2018, the EC notified the U.S. that the DPPA shall apply to the UK as of April 1, 2018. The U.S., under the terms of the DPPA, is therefore required to provide certain judicial redress rights to citizens of the UK as of April 1, 2018.

Determinations and Designations Pursuant to Section 2(d)(1)

For purposes of implementing section 2(d)(1) of the Judicial Redress Act:

(1) The Attorney General has determined that the UK has entered into an agreement with the U.S. that provides for appropriate privacy protections for information shared for the purpose of preventing, investigating, detecting, or prosecuting criminal offenses; to wit, the DPPA;

(2) The Attorney General has determined that the UK permits the transfer of personal data for commercial purposes between its territory and the territory of the U.S., through an agreement with the U.S. or otherwise;

(3) The Attorney General has certified that the policies regarding the transfer of personal data for commercial purposes and related actions of the UK do not materially impede the national security interests of the U.S.; and

(4) The Attorney General has obtained the concurrence of the Secretary of State, the Secretary of the Treasury, and the Secretary of Homeland Security to designate the UK as a “covered country.”

(5) The UK has been designated as a “covered county,” effective on April 1, 2018, the date of the DPPA’s entry into force with respect to the UK.

Determinations and Designations Pursuant to Section 2(e)(1)

For purposes of implementing section 2(e)(1) of the Judicial Redress Act:

(1) The Attorney General has determined that information exchanged by the Federal agencies and components specified in 82 FR 7860 (Jan. 23, 2017) with the UK is within the scope of the DPPA; and

(2) The Attorney General has obtained the concurrence of the head of the relevant agency, or of the head of the agency to which the component belongs, as needed, for the “designated Federal agency or component” designations specified in 82 FR 7860 (Jan. 23, 2017).

Non-retroactivity

No cause of action shall be afforded by the Judicial Redress Act retroactively with respect to any record transferred from the UK prior to the date of the DPPA’s entry into force with respect to the UK, on April 1, 2018.

Non-reviewable Determination

In accordance with section 2(f) of the Judicial Redress Act, the determinations by the Attorney General described in this notice shall not be subject to judicial or administrative review.

Dated: February 6, 2019.

Matthew G. Whitaker
Acting Attorney General

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