

Committee on Civil Liberties, Justice and Home Affairs
The Chairman

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Ms Věra JOUROVÁ
Commissioner for Justice, Consumers and Gender Equality
European Commission
Rue de la Loi 200
1049 Bruxelles

D 302481 10.02.2016

Subject: EU-U.S. Safe Harbour

Dear Commissioner,

I would like to thank you for your kind participation in the LIBE Committee meeting in Strasbourg on 1st February 2016. During the meeting you provided a first interesting update on recent talks with the United States on a new framework for transatlantic data flows. You indicated that the day after the College would discuss the state of play of the negotiations with the U.S. and that you would inform your colleagues of the positions expressed by the LIBE Committee Members.

On 2nd February you announced that the College of Commissioners approved a political agreement on a new framework for transatlantic data flows that would be rebranded as "the EU-US Privacy Shield" on the basis of which the Commission would prepare a draft adequacy decision. It was also announced that the College had mandated Vice-President Ansip and yourself to prepare the necessary steps to put in place the new arrangement.

As shown in the discussion on 1st February, it is not yet possible to fully assess, on the basis of the available information, whether the announced measures will be legally binding on either party or merely rely on a "declaration" by the U.S. authorities on their interpretation of the legal situation regarding surveillance by the U.S. intelligence services.

For such an important agreement which frames the transfer of mass EU and U.S. business as well as citizens' data with high privacy and economic implications, a strong legal backing must obviously be ensured. Otherwise, the new Commission adequacy decision and its underlying agreement may again be challenged before the European Union Court of Justice. We must do our best to prevent legal uncertainty and ensure that our citizens and companies will benefit from clear legal high level standards.

As you will understand, the Committee I have the honour to chair will not be in a position to properly assess the proposed successor to Safe Harbour until the corresponding text is made available. This is why, further to the College decision of 2 February, I expect the Commission to fulfil its obligations as set out in the Framework Agreement on relations between the European Parliament and the European Commission.

I must emphasize that since the beginning of the discussions with the U.S. authorities pursuant to the Commission Communication of November 2013, the European Parliament has not been provided with any written documents on the state of play of the negotiations, but only with oral briefings. This has remained the case even since the Schrems judgment in October 2015.

I understand that the text of the arrangement is being finalised. Nevertheless it is the duty of the Commission to provide Parliament with all relevant written information at the earliest opportunity, hence fulfilling the principle of sincere cooperation.

I would appreciate it, if I could receive for within one week an information note with clear and precise elements on the agreed arrangement and its legal form, setting out the improvements compared to the invalidated U.S. Safe Harbour as well as a timetable on the finalisation of the procedure for the adoption of the so-called "EU-U.S. Privacy Shield" and the subsequent draft adequacy decision. As soon as the finalised text is available, it should also be made available to this Committee.

I am looking forward to our further exchanges on this key matter.

Yours sincerely,

A solid black rectangular box used to redact the signature of Claude Moraes.

Claude Moraes