

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

Subject: EU-US Privacy Shield. Draft Commission Implementing Decision on the act on the adequacy of protection provided by the EU-US Privacy Shield

Dear Commissioner,

I would like to draw your attention to the above-mentioned draft Commission implementing Decision on the adequacy of protection provided by the EU-US Privacy Shield.

According to information published by several press media, the Commission has issued a revised version of the draft Commission adequacy decision following "a number of additional clarifications and improvements" made after discussions with the US authorities. According to these media, this revised draft text has been notified to the Member States on 23/24 June in view of the meeting of the Committee of the Article 31, scheduled 29 June and 4 July 2016. Finally, the media have been briefed by Commission officials on the "breakthrough" realised in the discussion between the EU and US negotiators.

It appears from the procedure followed that the European Parliament has not been notified at the same time as the information was made available to the Committee 31 members. Indeed, as checked on 27 June 2016 the latest version of the draft implementing act included in the Comitology register bears the date of 14 March 2016.

Regulation (EU) N°182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, lays down in Article 10 the information on committee proceedings.

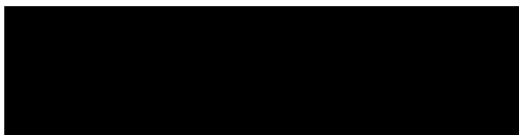
Article 10(4) provides that "At the same time as they are sent to the committee members, the Commission shall make available to the European Parliament and the Council the documents referred to in points (b) (agendas), (d) (the draft implementing act) and (f) (the final draft implementing following the opinion of the committee) of paragraph 1 whilst also informing them of the availability of such documents."

I find very regrettable that the European Parliament has not been given access to information on the basis of existing legal provisions and interinstitutional agreements. This situation is in breach of the rules provided for in Regulation (EU) N° 182/2011, of the Agreement between the Parliament and the Commission on procedure for implementing Council decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, as amended by Decision 2006/512/EC as amended on 22.7.2006, namely its Article 1 and of the principles of sincere cooperation and transparency.

I would like to recall that, pursuant to the Interinstitutional agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making, the three Institutions - including the Commission - committed to sincere and transparent cooperation throughout the entire legislative cycle and recalled "in this context (...) the equality of both co-legislators as enshrined in the Treaties".

Moreover this way of doing prevents the Parliament from properly conducting its right of scrutiny, as provided for in Article 11 of Regulation (EU) N° 182/2011; therefore I urge you to do the necessary to transmit without delay to the European Parliament all relevant information regarding the draft Commission implementing act, particularly the latest reviewed version as well as any other information transmitted to the members of the Committee 31. I would also request your presence to inform the LIBE Committee about this draft implementing act.

Yours sincerely,



Claude MORAES

CC: Mr Martin Schulz, President of the European Parliament
Mr Jerzy Buzek, Chairman of the Conference of Committee Chairs
Mr Frans Timmermans, 1st Vice-President of European Commission