

17.5.2021

B9-0272/11

**Amendment 11**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 2**

*Motion for a resolution*

*Amendment*

2. ***Welcomes*** the UK's commitment to respect democracy and the rule of law, and protect and give domestic effect to fundamental rights such as those set out in the ECHR, including high levels of data protection; recalls that this is a necessary precondition for the EU's cooperation with the UK; ***recalls that despite Article 8 of the ECHR on the right to privacy being part of UK domestic law via the Human Rights Act 1998 and common law via the new tort of misuse of privacy information, efforts to include a fundamental right to data protection were voted down by the government;***

2. ***Notes*** the UK's commitment to respect democracy and the rule of law, and protect and give domestic effect to fundamental rights such as those set out in the ECHR, including high levels of data protection; recalls that this is a necessary precondition for the EU's cooperation with the UK;

Or. en

17.5.2021

B9-0272/12

**Amendment 12**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**  
The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 2 a (new)**

*Motion for a resolution*

*Amendment*

**2a. Recalls the assessment of the EDPB, which recognises that the UK has mirrored, for the most part, the GDPR in its data protection framework, and that the EDPB has identified many aspects as being essentially equivalent; shares the view of the EDPB that the Commission should constantly assess the possible impact of related restrictions to the level of protection of personal data and take measures when necessary;**

Or. en

**Amendment 13**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution****B9-0272/2021****Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution****Paragraph 3***Motion for a resolution**Amendment*

3. Points out that the EU has opted for a human-rights-centric approach to data governance in developing robust data protection rules under the GDPR, and *is therefore deeply concerned about* public statements by the UK Prime Minister declaring that UK will seek to diverge from EU data protection rules and establish its own ‘sovereign’ controls in this field; considers that the 2020 UK national data strategy represents a shift from the protection of personal data towards a wider use and sharing of data that *is incompatible with* the principles of fairness, data minimisation and purpose limitation *under* the GDPR; notes that in its adequacy opinions, the EDPB highlighted that this might lead to possible risks in relation to the protection of personal data transferred from the EU;

3. Points out that the EU has opted for a human-rights-centric approach to data governance in developing robust data protection rules under the GDPR, and *takes note of* public statements by the UK Prime Minister declaring that UK will seek to diverge from EU data protection rules and establish its own ‘sovereign’ controls in this field; *stresses, however, that so far no legislative action has been taken on the basis of these political declarations;* considers that the 2020 UK national data strategy represents a shift from the protection of personal data towards a wider use and sharing of data that *could have an impact on* the principles of fairness, data minimisation and purpose limitation *set out in the GDPR and mirrored in the UK GDPR, even though it aims to maintain high data protection standards;* notes that *the strategy emphasises the commitment of the UK to obtain an adequacy decision from the EU and to ensure that the free flow of data between global partners and the UK is properly protected;* notes that in its adequacy opinions, the EDPB highlighted that this might lead to possible risks in relation to the protection of personal data transferred from the EU; *calls on the Commission, therefore, to closely monitor any further actions taken by the UK in this regard;*



17.5.2021

B9-0272/14

**Amendment 14**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 5**

*Motion for a resolution*

*Amendment*

5. Points out that the **assessment** carried out **by the Commission** before it presented its draft implementing decision **was incomplete and inconsistent** with the CJEU requirements for adequacy assessments, **which was highlighted by** the EDPB in its adequacy opinions, **where it** advises the Commission to further assess specific aspects of UK law and practice relating to bulk collection, overseas disclosure and international agreements in the field of intelligence sharing, additional use of the information collected for law enforcement purposes and the independence of judicial commissioners;

5. Points out that the **Commission** carried out **a thorough assessment** before it presented its draft implementing decision **in line** with the CJEU requirements for adequacy assessments; **recalls that** the EDPB in its adequacy opinions advises the Commission to further assess specific aspects of UK law and practice relating to bulk collection, overseas disclosure and international agreements in the field of intelligence sharing, additional use of the information collected for law enforcement purposes and the independence of judicial commissioners;

Or. en

**Amendment 15**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

B9-0272/2021

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution****Paragraph 6***Motion for a resolution**Amendment*

6. Expresses its concern about the **lack and often non-existent** enforcement of the GDPR by the UK when it was still a member of the EU; **points, in particular, to the lack of proper enforcement by the UK Information Commissioner's (ICO's) Office in the past**; points to the **example of the ICO closing a complaint about ad tech after holding two stakeholder events, writing a report (the 'Update Report on Adtech') and stating that 'the adtech industry appears immature in its understanding of data protection requirements', having used none of its enforcement powers<sup>17</sup>; is concerned that non-enforcement is a structural problem, as laid out in the ICO's regulatory action policy', which explicitly states that 'in the majority of cases we will reserve our powers for the most serious cases, representing the most severe breaches of information rights obligations. These will typically involve wilful, deliberate or negligent acts, or repeated breaches of information rights obligations, causing harm or damage to individuals'; **underlines that in practice, this has meant that a large number of data protection law breaches in the UK have therefore not been remedied;****

6. Expresses its concern about the **overall insufficient** enforcement of the GDPR by **some Member States, including** the UK when it was still a member of the EU; **recalls, however, the EDPB's assessment regarding the existence and effective functioning of an independent supervisory authority** in the UK; **underlines that the UK Information Commissioner's Office (ICO) is a well-equipped and active data protection authority which already had enforcement powers before the GDPR was in place and imposed significant fines under the GDPR when the UK was still a member of the EU**; points to the **importance of proper enforcement by the ICO and stresses that the UK should ensure that the ICO maintains a high level of expertise and resources so it can properly enforce the UK data protection framework;**

*<sup>17</sup> Lomas, N., UK's ICO faces legal action after closing adtech complaint with nothing to show for it, TechCrunch, San Francisco, 2020.*

Or. en

17.5.2021

B9-0272/16

**Amendment 16**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 7**

*Motion for a resolution*

*Amendment*

7. *Takes note of the UK's national data strategy, as updated on 9 December 2020, which suggests that there will be a switch from the protection of personal data towards increased and wider use and sharing of data; points out that a position that 'withholding data can negatively impact society', as indicated in the strategy, is not compatible with the principles of data minimisation and purpose limitation under the GDPR and primary law;*

7. *Notes that the 2020 national data strategy emphasises the commitment of the UK to obtain an adequacy decision from the EU and to ensure that the free flow of data to and from the UK is properly protected; underlines the importance of monitoring any legislative changes based on the strategy and of assessing their compatibility with the GDPR;*

Or. en



**Amendment 17**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution****B9-0272/2021****Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution****Paragraph 9***Motion for a resolution**Amendment*

9. ***Is concerned that UK immigration uses a system that undertakes large-scale data processing to decide a person's right to remain in the country; notes that UK data protection law contains a broad derogation from aspects of the fundamental data protection rights and principles, such as the right of access and the right of a data subject to know with whom their data has been shared, if such protection would 'prejudice effective immigration control'<sup>20</sup>; points out that this exemption is available to all data controllers in the UK, including local authorities, health providers and private contractors involved in the immigration system; is concerned about the*** recently revealed information that the immigration exemption was used in over 70 % of data subject requests to the Home Office in 2020<sup>21</sup>; underlines that the monitoring and compliance of the use of the exemption must be carried out in line with standards required in the adequacy referential which require consideration of practice as well as principle by pointing out that 'it is necessary to consider not only the content of the rules applicable to personal data transferred to a third country ... but also the system in place to ensure the effectiveness of such rules'; ***stresses that this derogation was not in line with the GDPR when the UK was still a Member State, and was ignored by the Commission***

9. Notes that UK data protection law contains a derogation from ***certain*** aspects of the fundamental data protection rights and principles, such as the right of access and the right of a data subject to know with whom their data has been shared, if such protection would 'prejudice effective immigration control'<sup>20</sup>; underlines that the monitoring and compliance of the use of the exemption must be carried out in line with standards required in the adequacy referential which require consideration of practice as well as principle by pointing out that 'it is necessary to consider not only the content of the rules applicable to personal data transferred to a third country ... but also the system in place to ensure the effectiveness of such rules'; ***recognises that this exemption, which is available to all data controllers in the UK, has been endorsed by the ICO and a court, and can only be invoked on a case-by-case basis and applied in a necessary and proportionate way; recalls*** recently revealed information ***according to which 17 780 access requests were made in relation to data processed by the Home Office between 1 April 2018 and 31 March 2019 concerning 146.75 million data subjects and*** that the immigration exemption was used in over 70 % of data subject requests to the Home Office in 2020<sup>21</sup>; ***stresses that even in those cases***

*in its role as Guardian of the Treaties; underlines that the EDPB concluded in its opinions that further clarifications on the application of the immigration exemption are needed;*

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<sup>20</sup> *Schedule 2 of the Data Protection Act 2018.*

<sup>21</sup> Open Rights Group press release of 3 March 2021 entitled ‘Documents reveal controversial Immigration Exemption used in 70% of access requests to Home Office’.

*where the Home Office made use of the derogation, access to information was not completely denied but restricted to redacted documents;*

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<sup>21</sup> Open Rights Group press release of 3 March 2021 entitled ‘Documents reveal controversial Immigration Exemption used in 70% of access requests to Home Office’..

Or. en

17.5.2021

B9-0272/18

**Amendment 18**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 10**

*Motion for a resolution*

*Amendment*

10. Notes that this exemption now ***applies*** to EU citizens who reside or ***plan*** to reside in the UK; ***is strongly concerned*** that ***the exemption removes*** key opportunities for accountability and remedies, ***and underlines*** that this ***is not an*** adequate level of protection;

10. Notes that this exemption, ***which can be challenged before the ICO and UK courts***, now ***may be invoked in relation*** to EU citizens who reside or ***are planning*** to reside in the UK; ***calls on the Commission to closely monitor the application of this exemption to ensure that it does not remove*** key opportunities for accountability and remedies ***and*** that this ***does not render the*** level of protection ***inadequate***; ***calls on the Commission to request safeguards in order to protect EU citizens against the possible use of this exemption in the future and to uphold the rights and remedies enjoyed by EU citizens under the GDPR***;

Or. en

17.5.2021

B9-0272/19

**Amendment 19**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 12**

*Motion for a resolution*

*Amendment*

12. Recalls the revelations of mass surveillance by the US and the UK, as revealed by whistle-blower Edward Snowden; recalls that the **UK** ‘Tempora’ programme run by the Government Communications Headquarters (GCHQ) ***intercepts*** communications in real time ***through fibre-optical internet backbone cables, and records*** the data so ***it*** can be processed and searched at a later time; ***recalls that this mass surveillance of communications content and metadata takes place regardless of whether there are any specific suspicions or any target data;***

12. Recalls the revelations of mass surveillance by the US and the UK, as revealed by whistle-blower Edward Snowden; recalls that ***in 2018 the European Court of Human Rights ruled unlawful the UK’s mass data interception and retention programmes, including*** the ‘Tempora’ programme run by the Government Communications Headquarters (GCHQ) ***and used to intercept*** communications in real time ***and to record*** the data so ***they*** can be processed and searched at a later time;

Or. en

17.5.2021

B9-0272/20

**Amendment 20**

**Tom Vandenkendelaere, Jeroen Lenaers**  
on behalf of the PPE Group

**Motion for a resolution**

**B9-0272/2021**

**Committee on Civil Liberties, Justice and Home Affairs**

The adequate protection of personal data by the United Kingdom

**Motion for a resolution**

**Paragraph 14**

*Motion for a resolution*

*Amendment*

14. Recalls its resolution of 12 March 2014, which found that the indiscriminate and non-suspicion-based mass surveillance programmes conducted by the UK intelligence agency GCHQ are incompatible with the principles of necessity and proportionality in a democratic society and are not adequate under EU data protection law;

14. Recalls its resolution of 12 March 2014, which found that the indiscriminate and non-suspicion-based mass surveillance programmes conducted by the UK intelligence agency GCHQ are incompatible with the principles of necessity and proportionality in a democratic society and are not adequate under EU data protection law; ***recognises that the UK has since significantly reformed its surveillance laws and introduced safeguards which go beyond the conditions defined by the Court of Justice of the European Union (CJEU) in its ‘Schrems II’ ruling<sup>1a</sup> and the safeguards provided in the surveillance laws of most Member States; welcomes in particular the provision of full access to effective judicial redress; recalls that the UN Special Rapporteur on the Right to Privacy has welcomed the strong safeguards introduced with the Investigatory Powers Act (IPA) 2016 in terms of necessity, proportionality and independent authorisation by a judicial body;***

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<sup>1a</sup> ***Judgment of 16 July 2020, Data Protection Commissioner v Facebook Ireland Limited and Maximillian Schrems, C-311/18, ECLI:EU:C:2020:559.***

