

17.5.2021

B9-0272/21

Amendment 21

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 19

Motion for a resolution

Amendment

19. *Points out that the UK rules on the sharing of personal data under the Digital Economy Act 2017 and on onward transfers of research data are clearly not ‘essentially equivalent’ to the rules set out in the GDPR, as interpreted by the CJEU;*

19. *Notes that UK legislation, notably the Digital Economy Act 2017 and the Crime and Courts Act, explicitly allow ‘onward sharing’ of personal data between public authorities and with the National Crime Agency respectively for several specified purposes; underlines that onward sharing on the basis of these acts has to comply with the rights and principles defined in the UK Data Protection Act; shares the view of the EDPB that the Commission should further assess the possible impact of related restrictions to the level of protection of personal data;*

Or. en

17.5.2021

B9-0272/22

Amendment 22

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 20

Motion for a resolution

Amendment

20. ***Is concerned*** that the UK has granted itself the right to declare that other third countries or territories provide adequate data protection, irrespective of whether the third country or territory in question has been held to provide such protection by the EU; recalls that the UK has already declared that Gibraltar provides such protection even though the EU has not done so; ***is strongly concerned that a UK adequacy status would therefore lead to the bypassing of the EU rules on transfers to countries or territories not deemed adequate under EU law;***

20. ***Notes*** that the UK has granted itself the right to declare that other third countries or territories provide adequate data protection, irrespective of whether the third country or territory in question has been held to provide such protection by the EU; recalls that the UK has already declared that Gibraltar provides such protection even though the EU has not done so; ***underlines that the UK rules governing personal data transfers to third countries are identical to the rules provided for in the GDPR; considers, however, that the Commission should monitor the application of these rules in practice, as the UK's granting of adequacy status to countries or territories not deemed adequate under EU law could lead to the bypassing of the EU rules on transfers;***

Or. en

17.5.2021

B9-0272/23

Amendment 23

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 23

Motion for a resolution

Amendment

23. *Is concerned* that if the UK includes provisions on data transfers in any future trade agreements, *inter alia* US-UK trade agreements, the level of protection *offered* by the **GDPR would be undermined**;

23. *Notes* that if the UK includes provisions on data transfers in any future trade agreements, *inter alia* US-UK trade agreements, **this could entail the risk of the level of protection of personal data provided by the UK being lowered; calls, therefore, on the Commission to monitor this aspect**;

Or. en

Amendment 24

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**

Adequate protection of personal data by the United Kingdom

Motion for a resolution**Paragraph 25***Motion for a resolution**Amendment*

25. Notes the UK's cross-border data access agreement with the US²⁷ under the US CLOUD Act, which facilitates transfers for law enforcement purposes; ***is deeply concerned that this will allow*** undue access to the personal data of EU citizens and residents by US authorities; shares the concern of the EDPB that the safeguards provided under the EU-US Umbrella Agreement²⁸ applied on a mutatis mutandis basis might not meet the criteria of clear, precise and accessible rules when it comes to access to personal data, or might not sufficiently enshrine such safeguards so as to be effective and actionable under UK law;

25. Notes the UK's cross-border data access agreement with the US²⁷ under the US CLOUD Act, which facilitates transfers for law enforcement purposes; ***takes note that the agreement has not yet entered into force as the UK is seeking additional safeguards from the US and has committed to informing the Commission of those additional safeguards before the agreement enters into force; expects those safeguards to prevent*** undue access to the personal data of EU citizens and residents by US authorities; shares the concern of the EDPB that the safeguards provided under the EU-US Umbrella Agreement²⁸ applied on a mutatis mutandis basis might not meet the criteria of clear, precise and accessible rules when it comes to access to personal data, or might not sufficiently enshrine such safeguards so as to be effective and actionable under UK law ***and calls, therefore, on the Commission to monitor the implementation of the agreement in this regard;***

²⁷ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America of 3 October 2019 on Access to Electronic Data for the Purpose of Countering Serious Crime.

²⁸ Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences, OJ L 336, 10.12.2016, p. 3.

²⁷ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America of 3 October 2019 on Access to Electronic Data for the Purpose of Countering Serious Crime.

²⁸ Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences, OJ L 336, 10.12.2016, p. 3.

Or. en

Amendment 25

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution**Paragraph 29***Motion for a resolution**Amendment*

29. Recalls that in its resolution of 12 February 2020, the European Parliament stressed that ‘the UK cannot have direct access to EU information systems data or participate in the management structures of the EU agencies in the area of Freedom, Security and Justice, while any sharing of information including personal data with the UK should be subject to strict safeguards, audit and oversight conditions, including an equivalent level of protection of personal data to that provided by EU law’; ***is concerned about the shortcomings and violations*** identified in the way the UK implemented data protection law while it was still a member of the EU; recalls that the UK was recording and maintaining ***an illegal*** copy of the Schengen Information System; ***points out that, although the UK no longer has access to the Schengen Information System, these violations have demonstrated that the UK authorities could not be trusted with EU citizens’ data while it was still a Member State; regrets, therefore, that the Commission has failed to execute its task as Guardian of the Treaties by not sufficiently pressuring the UK to urgently solve these problems in an adequate and timely manner and demonstrate that it can be entrusted with the processing of personal data for the purposes of the prevention, investigation,***

29. Recalls that in its resolution of 12 February 2020, the European Parliament stressed that ‘the UK cannot have direct access to EU information systems data or participate in the management structures of the EU agencies in the area of Freedom, Security and Justice, while any sharing of information including personal data with the UK should be subject to strict safeguards, audit and oversight conditions, including an equivalent level of protection of personal data to that provided by EU law’; ***takes note of the*** shortcomings identified in the way the UK implemented data protection law while it was still a member of the EU; recalls that the UK was recording and maintaining ***a*** copy of the Schengen Information System (***SIS***); ***expects the UK law enforcement agencies to fully comply with the applicable rules when exchanging personal data in the future; recalls that the UK maintains access to some EU law enforcement databases only on a hit/no hit basis and is legally excluded from accessing the SIS;***

detection or prosecution of criminal offences or the execution of criminal penalties; is therefore concerned about data being exchanged with UK law enforcement agencies, and about the UK maintaining access to EU law enforcement databases;

Or. en

17.5.2021

B9-0272/26

Amendment 26

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 31

Motion for a resolution

Amendment

31. Notes that the draft adequacy decision *fails to take account of the UK's actual surveillance practices and reflects an inaccurate and limited understanding of* the types of communications data that fall under UK data retention and lawful interception powers;

31. Notes that the draft adequacy decision *thoroughly assesses the rights of each UK authority empowered by national law to intercept and retain personal data for national security reasons; welcomes, furthermore, the fact that detailed oversight reports about the authorities in charge of the intelligence community provide information regarding the UK's current surveillance practices; calls on the Commission to further assess and monitor* the types of communications data that fall under UK data retention and lawful interception powers;

Or. en

Amendment 27

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**

Adequate protection of personal data by the United Kingdom

Motion for a resolution**Paragraph 32***Motion for a resolution**Amendment*

32. Points out that the EU-UK Trade and Cooperation Agreement (TCA) includes titles on the exchange of DNA, fingerprints and vehicle registration data, the transfer and processing of passenger name record (PNR) data, cooperation on operational information, and cooperation with Europol and Eurojust, which ***will apply regardless of the*** adequacy decision; recalls, however, the concerns expressed in the opinion of the Committee on Civil Liberties, Justice and Home Affairs of February 2021 on the TCA ***regarding the special use and longer retention of personal data granted to the UK under the Prüm and PNR titles of the TCA, which are not in line with the uses and retentions by the Member States***; recalls the right to bring an action before the CJEU in order to seek verification of the legality of the proposed international agreement and, in particular, the compatibility thereof with the protection of a fundamental right²⁹;

32. Points out that the EU-UK Trade and Cooperation Agreement (TCA) includes titles on the exchange of DNA, fingerprints and vehicle registration data, the transfer and processing of passenger name record (PNR) data, cooperation on operational information, and cooperation with Europol and Eurojust, which ***can be suspended if the UK shows serious deficiencies regarding the protection of personal data, including where the Commission suspends the relevant adequacy decision; welcomes the fact that the processing of special categories of data remains prohibited***; recalls, however, the concerns expressed in the opinion of the Committee on Civil Liberties, Justice and Home Affairs of February 2021 on the TCA; ***notes that the TCA provisions concerning Prüm are mostly in line with internal EU rules, but have been adapted in relation to evaluation, suspension and disapplication***; recalls the right to bring an action before the CJEU in order to seek verification of the legality of the proposed international agreement and, in particular, the compatibility thereof with the protection of a fundamental right²⁹;

²⁹ European Parliament resolution on the draft Commission decision noting the adequate level of protection provided for personal data contained in the Passenger Name Records (PNRs) transferred to the US Bureau of Customs and Border Protection., OJ C 103E, 29.4.2004, p. 665.

²⁹ European Parliament resolution on the draft Commission decision noting the adequate level of protection provided for

personal data contained in the Passenger Name Records (PNRs) transferred to the US Bureau of Customs and Border Protection., OJ C 103E, 29.4.2004, p. 665.

Or. en

17.5.2021

B9-0272/28

Amendment 28

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 33

Motion for a resolution

Amendment

33. Calls on the Commission to assure EU businesses that the adequacy decision will provide a solid, ***sufficient and future-oriented*** legal basis for data transfers; underlines the importance of making sure that this adequacy decision will be deemed acceptable if reviewed by the CJEU and stresses that all recommendations made in the EDPB opinion should therefore be taken on board;

33. Calls on the Commission to assure EU businesses that the adequacy decision will provide a solid legal basis for data transfers ***insofar as the data protection regimes of the UK and the EU remain convergent in law and in practice***; underlines the importance of making sure that this adequacy decision will be deemed acceptable if reviewed by the CJEU and stresses that all recommendations made in the EDPB opinion should therefore be taken on board;

Or. en

17.5.2021

B9-0272/29

Amendment 29

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 33 a (new)

Motion for a resolution

Amendment

33a. Expects the Commission, where the available information reveals that the UK no longer ensures an adequate level of protection and to the extent necessary, to make use of its powers to amend, suspend or repeal the adequacy decision at any point in time, including by means of the urgency procedure provided for in the draft adequacy decision; expects the Commission to attempt to amend the decision first before suspending or repealing it, in order to avoid unnecessary disruptions to data flows or high compliance costs;

Or. en

17.5.2021

B9-0272/30

Amendment 30

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
Adequate protection of personal data by the United Kingdom

Motion for a resolution

Paragraph 33 b (new)

Motion for a resolution

Amendment

33b. Welcomes the fact that the adequacy decisions will only apply for four years, as the UK might choose to amend the legislation subject to the Commission's adequacy assessment now that it is no longer an EU Member State; calls on the Commission to keep monitoring the level of data protection in the UK in law and practice in the meantime and to conduct a thorough assessment before renewing the adequacy decision in 2025;

Or. en