



The end of free personal data transfers to the US based on the Safe Harbor scheme

As a follow-up to our previous newsletter, we would like to inform you that this morning the Court of Justice declared the Commission's US Safe Harbor Decision invalid.

Under the "safe harbor" scheme, it was possible to freely transfer personal data from the European Union to companies and organizations, which voluntarily obliged to follow the privacy protection principles and were listed in the "Safe Harbor List". Numerous companies, such as Facebook, Google or MasterCard relied on the Safe Harbor. The decision is a reaction on the affair of Edward Snowden who published information about the US security services' massive global monitoring of telephones and electronic communication.

The Court of Justice based its decision especially on two facts. Firstly, the US legal regulation under which public authorities have general access to the content of electronic communications interferes with the fundamental right to privacy. Secondly, in the US there is no effective legal protection against such interferences.

In addition, the Court of Justice stated that the existence of a Commission decision declaring that a third country ensures an adequate level of protection of personal data cannot eliminate the powers of national personal data protection authorities to independently examine, whether the data transfers to such third country are possible. In practice, this could lead to a disunited approach of national authorities with respect to personal data transfers to third countries.

Today decision means considerable complications for all companies that relied on the Safe Harbor, no matter whether they for example transferred their customers' data to the United States or used cloud services whose providers have their servers in the US.

We reported on the case also in our article published by epravo.cz (in Czech only).

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