

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

7 July 2021

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Data adequacy decisions for trade and law enforcement purposes (ESC numbers 41796-7)

Thank you for your letter of 19 April concerning the draft data adequacy decisions published by the Commission.

Once adopted, the decisions would provide the lawful basis for the continued flow of personal data from the EU to the UK for trade and law enforcement purposes. Adoption was required before the expiry of bridging provisions in the Trade and Cooperation Agreement (TCA) on 30 June.

In its Report of 12 May, the Committee said it would next write to you when there had been further progress towards the adoption of the decisions. We are very pleased to be doing so now, in the light of the formal adoption of the decisions by the EU on 28 June.

As the Committee in the House tasked with scrutinising EU affairs, our main purpose in writing is to request that you provide us with timely information on further developments affecting the continued application and operation of the decisions. We make this request because these decisions are vital to the uninterrupted and unencumbered flow data from the EU to the UK for both trade and law enforcement purposes. Developments might include (but are not limited to):

- Proposed or actual divergence from the current UK legal framework on data protection that might attract close monitoring of the adequacy decisions by the

Commission. We note for example the recommendation of the TIGGR¹ [Report](#), (see Headline Proposal 7)² on replacing the UK GDPR with a UK Framework of Citizen Data Rights.

- Proposed or actual divergence from the current EU legal framework on data protection by the EU itself, as this may also affect the initial adequacy assessment.
- Problems relating to cooperation between the Commission and the UK which could lead to the Commission taking action to suspend, amend or repeal the decision for lack of UK cooperation.
- As the four-year deadline of 27 June 2025 approaches, any indications that the Commission is not minded to extend the decisions by initiating the six month process preparatory to that (see Recitals 290 of the GDPR decision and Recital 174 of the LED decision³).
- Any indication that a legal challenge to the adequacy decisions has been launched in the EU Courts or indeed to UK “adequacy regulations” in the UK courts given their relevance to Commission monitoring of the onwards transfer of data to other third countries.
- Discussions raised within the Partnership Council or relevant Specialised Committees of the TCA which are relevant to the adequacy decisions, particularly given their importance to the operation of the Law Enforcement provisions (Part 3 TCA).

In any event, we would be grateful for a yearly update on the operation and functioning of the decisions.

Given the cross-cutting nature of these decisions, I am copying this letter to the Chair (Julian Knight MP) and Clerk (Stephen McGinness) of the Digital, Culture, Media and Sport Committee; the Chair (Rt Hon. Yvette Cooper MP) and Clerk (Elizabeth Hunt) of the Home Affairs Committee; the Chair (Rt Hon. Greg Clark MP) and Clerk (Danielle Nash) of the Science and Technology Committee; the Chair (Angus Brendan MacNeil MP) and Clerk (Eligio Cerval-Pena) of the International Trade Committee; the Chair (Simon Hoare MP) and Clerk (Stephen Habberley) of the Northern Ireland Affairs Committee; the Chair (Darren Jones

¹ Taskforce on Innovation, Growth and Regulatory Reform.

² The Headline Proposal reads “Replace the UK General Data Protection Regulation 2018 with a new, more proportionate UK Framework of Citizen Data Rights to give people greater control of their data while allowing data to flow more freely and drive growth across healthcare, public services and the digital economy”.

³ These Recitals state “Where in particular information resulting from the monitoring of this Decision reveals that the findings relating to the adequacy of the level of protection ensured in the United Kingdom are still factually and legally justified, the Commission should, at the latest six months before this Decision ceases to apply, initiate the procedure to amend this Decision by extending its temporal scope, in principle, for an additional period of four years”.

MP) and Clerk (Dr Rebecca Davies) of the Business and Industrial Strategy Committee; the Chair (Rt Hon. Jeremy Hunt MP) and the Clerk (James Davies) of the Health and Social Care Committee; the Chair (Rt Hon. Harriet Harman QC MP) and the Clerk (Lucinda Maer) of the Joint Committee on Human Rights; the Chair (the Earl of Kinnoull) and Clerk (Simon Pook) of the Lords European Affairs Committee; Rachel Marnick in the Department for Digital, Culture, Media and Sport; Alex Bernal in the Home Office; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR