

TRANSFER OF PERSONAL DATA TOWARD THE USA: EU-US PRIVACY SHIELD INVALID

On 16 July 2020 the European Court of Justice (“ECJ”) declared that the European Commission's decision of 12 July 2016, which had found that the United States ensured an adequate level of protection of personal data transferred under the EU-US Privacy Shield Framework, was invalid.

In the same decision the ECJ also confirmed the validity of the decision No. 87/2010, regarding the standard contractual clauses for the transfer of personal data in countries outside the European Union.

As a result of the above decision, the *European Data Protection Board* issued on 23 July 2020 a new version of the *Frequently Asked Questions* addressing the transfer of personal data toward the USA.

In light of the current situation, the companies – which transferred (or are in the process to transfer) personal data toward the USA, pursuant the void EU-US Privacy-Shield – must review their procedures to be in compliance with the ECJ decision.

Having said that there is not a standard agreement that replaces the EU-US Privacy Shield, we suggest to use the options listed by the General Data Protection Regulation (“GDPR”) for the transfer of personal data in third countries, including the negotiation of specific agreements with the standard contractual clauses declared valid also in the latest ECJ decision.

This alert is updated on 6 October 2020 and the above topics could be subject to additional amendments.

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SILS’ legal team is specialized in the assistance of the companies in data protection matters also with respect to the transfer of personal data toward the USA. For further information and queries, please send an e-mail to the partners Mr. Fulvio Pastore-Alinante (fulvio.pastore@silsitalia.it) and Luigi Zumbo (luigi.zumbo@silsitalia.it).

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