

## Trans-Atlantic Data Privacy Framework – Successor Agreement to the Privacy Shield in Sight

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As mentioned in the [blog on February 11, 2022](#), negotiations between the European Commission and the US regarding a successor agreement to the EU-US Privacy Shield are well advanced.

On Friday, March 25, 2022, EU Commission President Ursula von der Leyen and US President Biden announced a new agreement for data exchange between the EU and the US so-called "Trans-Atlantic Data Privacy Framework". This is to be a successor agreement to the EU-US Privacy Shield. Such a so-called adequacy decision would mean that personal data from the EU member states and the member states of the European Economic Area would again be allowed to be transferred to the USA without further requirements.

Initial information on the Trans-Atlantic Data Privacy Framework is contained in the [fact sheet of the White House](#) and the [joint statement and fact sheet of the European Commission](#).

- As with the EU-US Privacy Shield, there is to be the possibility of self-certification by US companies.
- A new set of rules and binding safeguards should limit the access to data by U.S. intelligence authorities to what is necessary and proportionate to protect national security and must not disproportionately impact the protection of individual privacy and civil liberties.
- U.S. intelligence agencies should adopt procedures to ensure effective oversight of new privacy and civil liberties standards.
- A two-tier redress system for investigating and resolving complaints by European citizens is to be established with an independent court, the so-called "Data Protection Review Court".

**What happens now and what do you have to consider?**

- Initially, this is only a political announcement. The USA remains an insecure third country in terms of data protection law!
- According to current information, the U.S. surveillance laws will not be changed, but the assurances outlined above will be incorporated into a so-called "Executive Order." This Executive Order will be the basis for the draft adequacy decision for the United States.
- This draft is to be reviewed by the European Data Protection Board (EDPB). It will therefore be several months before an adequacy decision is taken.
- It is to be expected that the NOYB organization around Max Schrems will also appeal against this adequacy decision before the ECJ and that the agreement may only last for a while.