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AUTHORISATION OF THE PERSONAL DATA TRANSFER FROM THE EU TO THE US HAS CHANGED

In a recent judgement, the European Court of Justice¹ ruled that the decision of the European Commission on the adequacy of protection provided by safe harbour privacy principles² is invalid.

Following this judgement, all transfers of personal data from the European Union to the United States of America will be analysed by national supervisory authorities on personal data processing in each particular case, in consideration of all relevant circumstances, in view of determining whether an adequate level of protection of data subjects' rights is provided, without assuming henceforth that certain entities provide such a level of protection.

Within this framework, the National Supervisory Authority on Personal Data Processing will authorise only those transfers of personal data from Romania to the United States of America for which the data controller grants appropriate safeguards regarding protection of fundamental rights of individuals. Such safeguards will be subject either to agreements concluded by and between data controllers and individuals or legal entities requesting such transfer or to binding corporate rules.

¹The judgement as of October 6th, 2015, ruled in case C-362/14, on settlement of the request for a preliminary ruling under art. 267 of the Treaty on the Functioning of the European Union made by the High Court (Ireland), in the proceedings Maximillian Schrems against Data Protection Commissioner and Digital Rights Ireland Ltd, as joined party.

² The Decision 2000/520 of the European Commission pursuant to art. 25 (6) of the Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the United States Department of Commerce.

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