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JUSTICE

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Dear Ms Jelinek,

With this letter, I would like to request the opinion of the European Data Protection Board on the basis of Article 70(1)(s) of Regulation (EU) 2016/679 (GDPR) on a draft implementing decision on the adequate protection for personal data transferred under the EU-U.S. Data Privacy Framework ('EU-U.S. DPF').

The Commission, after having assessed the adequacy of the level of protection, proposes to decide, by means of the enclosed draft implementing act, that the United States ensures an adequate level of protection for personal data transferred from the European Union to organisations participating in the EU-U.S. DPF in line with Article 45(3) of the GDPR.

As specified in Article 45(2) of the GDPR, the enclosed draft implementing decision is based on a comprehensive analysis of rules applicable to the data importers and the limitations and safeguards as regards access to personal data by public authorities, in particular for criminal law enforcement and national security purposes. The Commission's assessment in the draft implementing decision seeks to determine whether the United States guarantees a level of protection for personal data transferred under the EU-U.S. DPF that is "essentially equivalent" to the level of protection ensured within the European Union (recital 104 of the GDPR). The standard against which the "essential equivalence" is assessed is that set by the GDPR, as interpreted in light of the Charter of Fundamental Rights by the Court of Justice of the European Union, most recently in its *Schrems II* judgment (case C-311/18).

The Commission's services stand ready to provide additional information and cooperate closely with the Board in the preparation of the opinion. To this end, I remain available to present the adequacy decision at the next plenary meeting of the EDPB in January 2023.

I would be grateful to receive the opinion by 15 February 2023.

Yours sincerely,

(e-signed)
Didier REYNDERS

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