

Fra: Jesper Husmer Vang
Sendt: 14. januar 2016 14:55
Til: Jakobsen, Ulrik R (Copenhagen)
Emne: SV: Safe Harbor

Kære Ulrik R. B. Jakobsen

Jeg skal hermed på vegne af Datatilsynet bekræfte modtagelsen af din e-mail.

Hvis I på den amerikanske ambassade ønsker at høre om Danmarks holdning til de igangværende samtaler om Safe Harbor, er det nok mest hensigtsmæssigt, om I kontakter Justitsministeriets databeskyttelseskontor i stedet for Datatilsynet.

Databeskyttelseskontoret kan kontaktes på følgende mailadresse:

jm@jm.dk

Hav en god dag.

Med venlig hilsen

Jesper Husmer Vang
Specialkonsulent, cand.jur.

DATATILSYNET

Fra: Jakobsen, Ulrik R (Copenhagen) [<mailto:JakobsenUR@state.gov>]
Sendt: 14. januar 2016 13:50
Til: Jesper Husmer Vang
Emne: Safe Harbor

Kære Jesper Husmer Vang,

Jeg har prøvet at fange dig på telefonen, men uden held. Vi her på den amerikanske ambassade er blevet bedt om at undersøge Danmarks holdning til de igangværende samtaler om Safe Harbor, og overbringe nedenstående. Jeg modtager meget gerne kommentarer til nedenstående, og håber du har tid til en samtale om emnet, enten personligt eller over telefonen.

Venlig hilsen
Ulrik R. B. Jakobsen
Economic Specialist
POL/ECON Section
U.S. Embassy Copenhagen
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Begin Talking Points:

- We have been working closely with the Commission to develop an enhanced and durable framework that meets U.S. and EU needs, addresses concerns raised in the ECJ ruling, and is judicially sustainable. The U.S.

Department of Commerce is leading these discussions on our side, with support of the Federal Trade Commission and the U.S. Department of State.

- The European Court of Justice (ECJ) judgment created significant uncertainty for over 4,400 EU and U.S. companies relying on the Safe Harbor Framework to conduct trans-Atlantic business operations.
- Many companies are already facing increased costs, lost business, and disruptions in their operations because of the ruling.
- With the end of January deadline for a new framework that was set by European data protection authorities rapidly approaching, we are concerned that the impact could get worse. Many companies have been unable to fully implement any other legal basis for transfer since the ruling. These companies could soon face enforcement actions and be required to halt transfers. At the same time, some data protection authorities have questioned the legality of model contracts and binding corporate rules as alternatives. Should other basis for transfer be invalidated as well, the economic impact would be broad and substantial.
- This is not a problem that can be solved by moving servers or storing data in Europe. U.S. and European businesses depend not only on data but the movement of data to conduct trans-Atlantic commerce.
- We believe that the best way to eliminate this uncertainty and restore confidence in trans-Atlantic data flows is to quickly move forward with a revised Safe Harbor Framework.
- An important aspect of recent discussions is to further clarify the strong privacy protections that are enshrined in U.S. law and practice. The allegations underlying the *Schrems* case about U.S. privacy law and intelligence practices were based on mistaken assumptions and outdated information. We value privacy as much as Europeans and have robust legal protections in place. The U.S. privacy regime incorporates multiple layers of oversight and transparency. U.S. privacy protections are equivalent to EU standards and in many cases exceed the protections offered by individual EU member states.
- U.S. intelligence activities are directed at protecting not only our security, but also that of our partners in Europe. EU Justice Commissioner Jourová noted to the European Parliament's Civil Liberties and Home Affairs Committee on October 26 that the United States has taken a number of "reform steps" in its privacy protection regime. For example, the U.S. legal framework for intelligence collection was updated by a 2014 Presidential Policy Directive [PPD-28] and by the 2015 USA Freedom Act, which ended the bulk telephone metadata collection program under Section 215 of the USA PATRIOT Act and allowed companies to provide increased transparency about the number of requests for data they receive from government agencies, among other changes.
- The Judicial Redress Act of 2015, which is pending in the U.S. Congress, would allow citizens of designated partner countries, including EU member states, to avail themselves of the core benefits that U.S. citizens and permanent residents enjoy under the U.S. Privacy Act with regard to information shared by European countries with the U.S. Government for law enforcement purposes, including judicial redress for denials of access to and correction of records and remedies for intentional or willful disclosure of information.
- A renewed and stable framework – one that withstands future legal challenges and gives certainty to EU and U.S. companies while restoring public trust in trans-Atlantic data flows – will help sustain our trade and investment relationship and facilitate economic growth.
- We hope your government will support swift adoption of an enhanced framework once it has been finalized.

End Talking Points

This email is UNCLASSIFIED.

Subject: Regarding your inquiry to the Danish Data Protection Agency - 2017-062-0683

From: Cathrine Serup Raasdal <cr@datatilsynet.dk>

Date: 07/07/2017 11:38 AM

To: "ractack@mail.com" <ractack@mail.com>

Dear Rachael Tackett,

The Danish Data Protection Agency (DPA) has received your e-mail dated July 4th 2017 regarding a request for comments about contact from the U.S. government to the Danish DPA concerning the EU-U.S. Privacy Shield.

With reference to your e-mail, *question 1-3 and 5*, the Danish DPA has examined whether the DPA has received any inquiries by e-mail within the said time frame from the U.S. embassy in Denmark regarding the so-called Safe Harbor or EU-U.S. Privacy Shield agreements.

The Danish DPA can confirm that the DPA by January 14th 2016 received an e-mail from the U.S. Embassy in Denmark asking for information about the Danish position on the issue regarding Safe Harbor. Please find attached a copy of the e-mail from the U.S.

Embassy including the answer from the Danish DPA dated January 14th 2017 saying, that the Embassy will have to contact the Danish Ministry of Justice to get information about our country's position on the subject.

In continuation hereof, the DPA can inform you that the DPA according to Danish law (the Danish Public Information Act) – upon request – will be obliged to disclose the above mentioned documents.

Additionally, the Danish DPA can inform you that the DPA accepted to meet with representatives from the U.S. Embassy and U.S. Department of Commerce on Monday May 9th 2016, as the Embassy wanted to elaborate the statements presented in the e-mail of January 14th 2016. A representative from the Danish Ministry of Justice did also participate in the meeting. In that connection, the DPA shall emphasize that it is not unusual, that the DPA accommodates a wish from a private or public organization, authority etc. to discuss various subjects within the area of personal data protection. Also, with reference to *question 5*, the Danish DPA would like to stress, that the Danish DPA is not represented in the Article 31 Committee, since Denmark is represented by the Ministry of Justice. Therefore, questions about the Danish involvements in the Article 31 Committee must be forwarded to the Danish Ministry of Justice: jm@jm.dk.

Finally, with reference to *question 4* in your e-mail regarding the “Umbrella Agreement” the Danish DPA does not seem to have received an e-mail from the U.S. Embassy on the subject.

The Danish DPA hereby hopes to have answered your questions.

Kind regards,

Cathrine Serup Raasdal

Regarding your inquiry to the Danish Data Protec...

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THE DANISH DATA PROTECTION AGENCY

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— Attachments: —

E-mail af 14. januar 2016.pdf

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