



EDPS strategy for EUIs to comply with the “Schrems II ruling”

**Supervision and Enforcement Unit
European Data Protection Supervisor
10/12/2020**

Court of Justice (Gr. ch.), “Schrems II”

16 July 2020, C-311/18

- The standard of « **essential equivalence of protection** » is **extended to transfers** carried out on the basis of **appropriate safeguards**



Court of Justice (Gr. ch.), “Schrems II”

16 July 2020, C-311/18

On the validity of the use of SCCs:

- The validity of SCCs (Decision 2010/87) depends on whether such a standard clauses decision incorporates **effective mechanisms** that make it possible, **in practice**, to ensure essential equivalence of protection, if need be with **supplementary measures**



Court of Justice (Gr. ch.), “Schrems II”

16 July 2020, C-311/18

SA's role

- Unless there is a valid adequacy decision, **SAs are required to suspend or prohibit a transfer** of personal data to a third country, **where** they take the view, **in the light of all the circumstances** of that transfer, that **the clauses are not or cannot be complied with** in that country and that the protection



Court of Justice (Gr. ch.), “Schrems II”

16 July 2020, C-311/18

Privacy Shield is invalid :

- **surveillance programmes** based on Section 702 FISA and EO 12333 read in conjunction with PPD-28 **do not comply with the principle of proportionality;**
- the **lack of effective remedies** in the US essentially equivalent to those required by Article 47 of the Charter;



EDPS Compliance strategy with the “Schrems II ruling” for EUIs

Objectives:

- ensure that both **ongoing** and **future** transfers comply with the «standard of « essential equivalence of protection »
- via **short term** and **medium term** actions for both **EUIs** and the **EDPS**



EDPS Compliance strategy with the “Schrems II ruling” for EUIs

Priority criteria

- Transfers ***towards private entities***
- Transfers ***towards the US***



EDPS Compliance strategy with the “Schrems II ruling” for EUIs

Action plan

- Mapping and **reporting** on certain categories of transfers
- **Caution for future services** and new processing operations



EDPS Compliance strategy with the “Schrems II ruling” for EUIs

Action plan – short term

- Mapping and **reporting** on certain categories of transfers
- **Caution for future services** and new processing operations

EDPS Compliance strategy with the “Schrems II ruling” for EUIs

Action plan – medium term

- Transfer impact assessments (***TIAs***)



Thank you for your attention!

For more information:

www.edps.europa.eu
edps@edps.europa.eu



@EU_EDPS