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To: (title)  
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Athens, Greece, December 8, 2015

### **Opinions of HIU for the “Safe Harbour 2” agreement**

Dear sirs,

The **Hellenic Informatics Union’s (HIU)**<sup>1</sup>, established in 2001, is the official representative of all scientists in the field of Informatics & Communications Technologies (ICT), with a university (BSc) degree in Informatics, Computer Science, Computer Engineering and Software Engineering in Greece. We are committed to the preservation of high standards in the scientific, professional, technical and ethical code of conduct for the people working in various areas related to ICT, including Education, Research & Development, Industry, Academia, Government, etc. Our primary goal is the proper organization of the ICT field in Greece, in terms of academic and professional standards, through the establishment of a National Chamber of Informatics (NCI), a critical actor that does not yet exist.

With this letter of intent we would like to steer your attention to an urgent matter related to ICT and the trans-Atlantic agreements with regard to exchange, storage and processing of personal data of EU citizens.

The long-awaited cooperation agreement between the European Union and

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<sup>1</sup><https://www.linkedin.com/company/hellenic-informatics-union>

the USA, also known as “**Safe Harbour 2**”, is upon us. This agreement essentially provides free data transfer between the cooperating parties, i.e., the USA on the one hand and the European Union or any member country on the other hand. In essence, the agreement permits and establishes the trans-Atlantic transfer of data, including sensitive personal data.

The recent invalidation of the previous “Safe Harbour” agreement by the European Court of Justice (ECJ)<sup>2</sup> in the **C-362/14 judgment** “...feels that the Commission’s decision against which the United States guarantee an adequate level of protection for personal data transferred is invalid”. Nevertheless, the EU has already expressed its intention to bring about an agreement with the US within a short period of time, named “Safe Harbour 2”.

More specifically, the new “Safe Harbour 2” agreement<sup>3</sup> is based on the **EU Directive 2000/520/EC**<sup>4</sup> of 26 July 2000, which validates USA with the “Safe Harbour” status, provided that they assure the “appropriate level of protection” of transferred personal data.

The European Court of Justice (ECJ)<sup>5</sup> in its judgment C-362/14 essentially recognizes the transfer, storage and processing of personal data of EU citizens to the USA, following the appeal<sup>6</sup> of an Austrian national to the authorities of Belgium, Germany and Ireland, where the European headquarters of a social networking company are located, in order not to allow the transfer of personal data to the US where this company’s HQ is located<sup>7</sup>. As a result of this appeal, the company was recently forced to take urgent technical measures to prevent any storage of tracking/identification data (“web cookies”), in order to avoid immediate fines from Belgian court<sup>8</sup> of up to **250,000 euros per day** of non-compliance<sup>9</sup>.

Although the “Safe Harbour 2” agreement indicates that it intends to ensure and safeguard an additional degree of security of personal data and to encourage cooperation between the European Union and the USA, however it raises serious issues of security, privacy and competition between businesses, under

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<sup>2</sup><http://curia.europa.eu/jcms/upload/docs/application/pdf/2015-10/cp150117el.pdf>

<sup>3</sup><http://statewatch.org/news/2015/sep/eu-us-umbrella-agreement-full-text.pdf>

<sup>4</sup><http://eur-lex.europa.eu/legal-content/EL/TXT/PDF/?uri=CELEX:32000D0520&from=en>

<sup>5</sup><http://curia.europa.eu/jcms/upload/docs/application/pdf/2015-10/cp150117el.pdf>

<sup>6</sup><http://arstechnica.com/tech-policy/2015/12/after-safe-harbour-ruling-legal-moves-to-force-facebook-to-stop-sending-data-to-us/>

<sup>7</sup>[http://www.europe-v-facebook.org/comp\\_fb\\_ie.pdf](http://www.europe-v-facebook.org/comp_fb_ie.pdf)

<sup>8</sup><http://www.telegraph.co.uk/technology/facebook/12030641/Facebook-to-stop-tracking-people-without-Facebook-accounts-in-Belgium-after-privacy-ruling.html>

<sup>9</sup><http://www.telegraph.co.uk/technology/facebook/11985694/Facebook-ordered-to-stop-tracking-non-users-in-Belgium-or-face-fines.html>

the pretext of measures against acts of terrorism.

More specifically, the agreement is not merely about the 4,000 companies that proceed with the handling, transfer and storage of information from the countries of Europe to the USA, but all businesses operating in a relevant sector. At the same time, it requires the hiring of legal advisors and the existence of technological capability (as defined by Articles 8,9,10,11,12 & 16). There is the argument that this is not a viable solution due to the excessively high financial costs, especially for small companies, essentially developing unfair competition and thereby affecting the fundamental business & labor principles of the European Community.

Given that the EU and USA have committed to a compromise and agreement by the end of 2015, so that American companies no longer face any legal problems with the EU legislation, the Hellenic Informatics Union (HIU) requests that the European Commission, MEPs, Member-States and Representatives of National Parliaments of the EU carefully re-examine the "Safe Harbour 2" agreement.

Our objections and concerns regarding the agreement are the following:

- The transmitted information negatively affect the fundamental principles of protecting personal data of EU citizens, as they will be handled without proper control.
- The agreement establishes a defacto status of unfair competition, which will mainly affect small- and medium-sized companies based in Europe.
- According to Article 6, paragraph 5, the Contracting Parties will ensure that any personal data will be processed under the provisions of the corresponding the national laws.

As a national actor in the ICT sector, the HIU must clarify that:

1. We do not stand against any agreement between the EU and USA, as well as the companies operating in their territories.
2. We do not wish to cancel the agreement, but we advocate the respect of personal data of EU citizens as an issue of the highest priority.

The HIU calls all parties involved in the preparation and signing of this new trans-Atlantic agreement to fully safeguard and protect the personal data of all European citizens. The EU must focus on the principles underlying the European legislation and the International Law in order to protect personal data, as well as the core principles and ideals upon which the EU was formed.

This memorandum is sent to the members of the European Parliament and the members of the Greek Parliament.

This memorandum was written in Greek and English.

Yours sincerely,

Dimitris Kiriakos  
HIU, President (A.C.)

cc: Hellenic Informatics Union (HIU) - Secretarial Office