



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 16, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

This letter provides the Department of Justice's views in support of S.1600 and H.R. 1428, the "Judicial Redress Act of 2015." The legislation is critical to ensuring continued strong law enforcement cooperation between the United States and the European Union (EU), and we appreciate the opportunity to work with Committee staff on these important matters.

For many years, the EU and many of its Member States have raised significant concerns regarding the fact that the Privacy Act of 1974 (Privacy Act) applies to U.S. citizens and legal permanent residents (LPRs), but not to foreign citizens who are not LPRs. In contrast, U.S. citizens have rights under EU and Member State data protection laws to seek access, amendment and either administrative or judicial redress with respect to the processing or use of their data. The absence of a broader right of action with respect to U.S. government privacy violations has remained a significant point of friction.

In 2011, the United States and EU commenced negotiations on a Data Protection and Privacy Agreement (DPPA). The agreement is intended to establish mutual recognition of EU and U.S. data privacy frameworks and clarify the application of U.S. and EU data protection measures to existing law enforcement cooperation agreements. The United States entered into these negotiations in order to ensure that our robust information sharing with the EU for law enforcement purposes would continue. During the course of the negotiations, the European Commission and Parliament both made it clear that the EU would sign the DPPA only if EU citizens are granted the right to seek redress in U.S. courts for major privacy violations related to

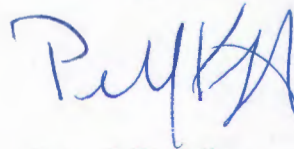
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personal information covered by the DPPA. Without an Act of Congress, the United States cannot provide EU citizens access to U.S. federal courts. Accordingly, enactment of the Judicial Redress Act of 2015 is essential to putting the United States and the EU in a position to conclude the DPPA.

The negative consequences that will result from failure to conclude the DPPA will include diminished law enforcement cooperation. If the DPPA is not concluded, it is likely that an increasing amount of law enforcement cooperation will be channeled into formal mutual legal assistance instead of through other channels of cooperation, including between U.S. and EU Member State law enforcement agencies. The diminishment of lawful information sharing options and diversion to a single channel would dramatically reduce cooperation and significantly hinder counterterrorism efforts, in addition to the prevention, detection, investigation, and prosecution of other criminal offenses. Additionally, the EU is drafting a new data protection directive, in which international transfers of law enforcement information concerning EU citizens will be severely restricted unless the recipient country meets certain privacy standards, including the right for EU citizens to seek judicial redress for major privacy violations in the recipient country's courts. In the event the EU impedes the transfer of law enforcement information, the ability to seek redress could be denied or withdrawn.

In sum, this legislation is critical to ensuring continued strong law enforcement cooperation between the United States and the EU. We fully support S.1600 and H.R. 1428, and we stand ready to work with the Committee on any issues relating to the legislation. Please do not hesitate to contact this office if we may be of additional assistance. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,



Peter J. Kadzik
Assistant Attorney General