The digital economy needs legal security

Transatlantic data traffic must also remain possible until the new Safe Harbor Agreement

After the European Court of Justice's Safe Harbor ruling in October 2015, the so-called Art. 29 Data Protection Working Party of the EU data protection authorities has set a time period until the end of January, during which it will undertake no enforcement activities and in addition will review what effects the ruling has from its perspective on standard contractual clauses and "Binding Corporate Rules." On this matter, the chair of the Digital Agenda Working Group of the CDU/CSU faction in the German Federal Parliament, Thomas Jarzombek, explains:

"The negotiations for a possible new Safe Harbor Agreement continue at present. Certainly, even after a hopefully speedy conclusion of a new agreement, there will be transition periods for enterprises during which they can adapt their transatlantic data transmission practices to the new agreement. The Art. 29 Data Protection Working Party should therefore cancel its self-imposed deadline, or at least extend it so that the German and European digital economy is not threatened by uncertainty.

Moreover, voices were now being heard that want to apply the European Court of Justice's ruling to the other instruments for transatlantic data transmission as well, such as standard contractual clauses, for example. Therein lies a great danger: IT enterprises and in particular start-ups in Germany and Europe need legal security for their transatlantic data traffic. The instruments for this data traffic must therefore also exist until the hopefully prompt conclusion of a new Safe Harbor Agreement. Standard contractual clauses, but also so-called Binding Corporate Rules are suitable instruments for this – data transmission on this basis must also be possible in the future. Europe cannot be allowed to fall into data isolation!"

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