

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(Text with EEA relevance)

CHAPTER V

Transfers of personal data to third countries or international organisations

Article 46

Transfers subject to appropriate safeguards

1 In the absence of a decision pursuant to Article 45(3), a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

2 The appropriate safeguards referred to in paragraph 1 may be provided for, without requiring any specific authorisation from a supervisory authority, by:

- a a legally binding and enforceable instrument between public authorities or bodies;
- b binding corporate rules in accordance with Article 47;
- c standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2);
- d standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2);
- e an approved code of conduct pursuant to Article 40 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or
- f an approved certification mechanism pursuant to Article 42 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights.

3 Subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in paragraph 1 may also be provided for, in particular, by:

- a contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation; or
- b provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

4 The supervisory authority shall apply the consistency mechanism referred to in Article 63 in the cases referred to in paragraph 3 of this Article.

5 Authorisations by a Member State or supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid until amended, replaced or repealed, if necessary, by that supervisory authority. Decisions adopted by the Commission on the basis of Article 26(4) of Directive 95/46/EC shall remain in force until amended, replaced or repealed, if necessary, by a Commission Decision adopted in accordance with paragraph 2 of this Article.

Status:

Point in time view as at 27/04/2016. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 46.