

**RULES OF PROCEDURE FOR THE SUBMISSION OF REQUESTS TO OMBUDSPERSON VIA THE
“EU Centralised Body” ACCORDING TO THE EU-US PRIVACY SHIELD**

The “EU Centralised Body” (EUCB) is set up in line with recital 119 of the Commission Implementing Decision C-(2016) 4176 of 12 July 2016 (EU-US Privacy Shield) and Annex III on the establishment of the Privacy Shield Ombudsperson mechanism.

The Privacy Shield Ombudsperson is a new mechanism set up under the Privacy Shield to facilitate the processing of and response to requests by EU individuals relating to the possible access for national security purposes by US intelligence authorities to personal data transmitted from the EU to the US. The Ombudsperson will deal with requests relating to data transferred not just pursuant to the Privacy Shield, but also on the basis of other frameworks such as the standard contractual clauses (SCCs), binding corporate rules (BCRs) or other derogations from Directive 95/46/EC in respect of international transfers of personal data.

The [Privacy Shield Annex III on the Ombudsperson mechanism](#) provides that *“a request will initially be submitted to the supervisory authorities in the Member States competent for the oversight of national security services and/or the processing of personal data by public authorities. The request will be submitted to the Ombudsperson by a EU centralised body.”*¹

Annex III does not set out in detail the composition or rules of the EU centralised body (EUCB). The Article 29 Working Party (WP29) has started the work to develop the details around the mechanism and has decided (at its plenary meeting of 12 December 2016) that, initially, it will serve as the EUCB.

The following rules of procedure will give guidance on the tasks and the composition of the EUCB and on how the EU supervisory authorities and the EUCB will work together in order to ensure that a request is properly verified, processed and transmitted to the Ombudsperson, in compliance with section 3b of Annex III.

1.) The task of the EUCB

The tasks of the EUCB are:

- to ensure consistency regarding the process of verification;
- to check the completeness of the request;
- to serve as the single point of contact with the US side;
- to transmit the request to the Ombudsperson.

2.) The composition of the EUCB

The WP29 has decided at its plenary meeting of 12 December 2016 that, initially, it will serve as the EUCB. It will, initially, be made operational by the DPAs of Bulgaria, the United Kingdom, Austria,

¹ Annex III, 3 a

Germany, and France (as Chair of the WP29) who will process requests under the Ombudsperson mechanism on behalf of the WP29.

The selection of the DPAs is determined by vote in a plenary meeting.

3.) The responsibility of the supervisory authorities to verify the request

The supervisory authority which has received a request is responsible for its verification according to section 3b of Annex III.

The supervisory authority will only pass on a request to the EUCB if it is satisfied, to the best of its knowledge, that the request is complete.

4.) Duties of the supervisory authority that receives a request

The duties of the supervisory authority receiving the request include:

- check whether the request is within the scope of application of the Ombudsperson mechanism;
- verify the identity of the individual and that this individual is acting on his or her own behalf and not as a representative of a governmental or intergovernmental organization;
- ensure that the request is made in writing (including via email) and that it contains the following information:
 - any information that forms the basis of the request including the details of the account or data transfer the requestor believes may have been accessed;
 - the nature of the information or relief sought;
 - the US government entities believed to be involved, if any, and;
 - details of any other measures pursued to obtain the information or relief requested and the response received through those other measures.
- verify that the request pertains to data reasonably believed to have been transferred from the EU to the USA pursuant to the Privacy Shield, Standard Contractual Clauses, Binding Corporate Rules, Derogations etc.;
- make an initial determination that the request is not frivolous, vexatious or made in bad faith;
- if found complete, provide a translation of the request into English where necessary;
- if found complete, pass on the request to the EUCB.

5.) Duties of the EUCB

The duties of the EUCB include:

- Ensure that the request has been made by a competent supervisory authority;

- check whether the request has been verified in consistence with other requests verified by other supervisory authorities;
- transmit request to the Ombudsperson via the portal provided by U.S. Department of State;
- on receipt, forward responses from the Ombudsperson to the competent supervisory authority who will in turn, provide the response to the requestor;
- serve as the single point of contact for communications from the Ombudsperson;
- bring to the attention of all members of the WP29 (and other supervisory authorities) matters of general interest.

6.) Cooperation and communication in conjunction with the “EUCB”

All supervisory authorities will publish other useful information on their website.

Communication between the EUCB and supervisory authorities in conjunction with the “EUCB” will be facilitated via appropriate electronic means.

The supervisory authority which has received the request will always be included in the communication on that request within the EUCB.

The Chair will inform the Department of State of the composition of the EUCB and will furthermore provide the U.S. Department of State with the names of those who need to be provided with access to the portal set up by the Department of State in order to process requests under the Ombudsperson mechanism.

Once the IT-system currently being created for the EDPB is operable it may be employed to facilitate the communication in conjunction with the EUCB.

In exceptional cases, there may be disagreement as to whether a request can be deemed complete and the EUCB and competent DPAs will work together to reach consensus. If there is difficulty finding consensus the EUCB or the DPA may bring the issue to the attention of the plenary of the WP29.