



Note for the attention of Ms Ilze Juhansone, Secretary-General

**Subject: Protection of personal data / Microsoft products used by European Union staff –
Office 365 (Office online, OneDrive, OneNote, Planner, Teams, Yammer, Outlook),
Webex, Skype for Business and other applications in use**

The staff representation follows up the report of the European Data Protection Supervisor of this 2020 (Investigative paper on Microsoft's products and services) in which certain risks have been pointed out for data protection concerning the use of Microsoft products.

The main risk identified is that Microsoft, being an American company, shall comply with United States of America (USA) law and any data it may hold, store or process, may be accessed by USA enforcement and intelligence offices under their own legal framework. The USA applicable legal rules shall have pre-eminence over European rules for Microsoft.

This puts at stake both the interest of European Union staff and that of the European Institutions for which they work.

In view of the total lack of consultation of the staff representatives concerning this important issue, we propose you to formally submit the following questions to the Data Protection Officer of the Commission.

In the context of the CJEU judgment on case C-311/18 the EDPS' investigative paper on Microsoft's products and services, and in accordance EU staff rights under Article 14,15,16, and 17 of Regulation 2018/1725, the European Commission Central Staff Committee would like to know the following:

- 1. Is personal data processed by the European Commission with Microsoft products transferred outside of the European Union (by either the Commission, Microsoft, or any other entity)?**
- 2. What legal basis of Regulation 2018/1725 is being relied upon for each instance of data transfer? (BCR, SCC, derogations, etc.). If you are relying on Standard Contractual Clauses or other instruments, please provide a copy of them.**
- 3. Is Microsoft or any of its processors or sub-processors subject to 50 USC §1881a ("FISA 702") or do they provide data to the US government under EO 12.333?**
- 4. Are there any other companies that transfer personal data subject to 50 USC §1881a ("FISA 702") or do they provide data to the US government under EO 12.333?**
- 5. What safeguards are protecting data that has left the European Union?**

6. How have European Union staff and their representative organs been informed, consulted and debriefed about the previous questions?

Considering the obligation of the controllers under Articles 15(1)(e), 16(1)(f), 17(2) and 31(1)(e) of the Regulation 2018/1725, the European Commission has previously informed its DPO of any processing of data involved and shall have proper documentation in a registry.

The Central Staff Committee would like to receive copies of all documents linked to these issues and be offered a detailed explanation and also asks for a dialogue meeting on the issue before the On-boarding phase is decided, the following may be proposed as subjects for discussion:

- **Procedures identifying Microsoft products as the chosen products for the office processing of data (impact assessment, alternatives, costs and risks).**
- **Safeguards offered to EU staff by the EU employer and by Microsoft in the agreements, contracts, licensing and other where applicable.**
- **Confidentiality of data used in the process of decision-making, production of statistics, investigations, analysis and policy development.**
- **Is harmonization foreseen at Commission level (Outside of the Union? DG JRC and OLAF)?**
- **Is digital coherence foreseen at inter-institutional level?**



Ignazio IACONO
President

Cc : Ms G. Ingestad (Director-General DG HR)
Mr M. Campolargo (Acting Director-General DIGIT)
Mr P. Leardini (SG - Chair of Steering Committee)
Mr D. Mueller, Ms S. Bikar (CAB Hahn)
Mr E. Sackers (DG HR Social Dialogue)
All CLPs and OSPs