

Anu Talus

Chair of the European Data Protection Board

Commissioner Michael McGrath
Commissioner for Democracy,
Justice, the Rule of Law and
Consumer Protection
European Commission
1040 Brussels, Belgium

Brussels, 31 July 2026

Subject: US Supreme Court judgment *Trump v. Slaughter*

Dear Commissioner McGrath,

Let me start by extending our appreciation for your availability to engage with the EDPB members during the June EDPB Plenary meeting.

After our fruitful discussion, there have been some judicial developments in the United States of America ('US') which the EDPB considers important.

On 29 June 2026, the US Supreme Court delivered judgment in *Trump v. Slaughter*¹, overruling the *Humphrey's Executor* case². The *Humphrey's Executor* case confirmed that the statutory protections afforded by the US Congress for the Commissioners of the Federal Trade Commission ('FTC') did not violate the US Constitution's separation of powers. Those protections provided that FTC Commissioners could be removed by the President only for specified "for-cause" reasons, e.g. 'inefficiency, neglect of duty, or malfeasance in office'.

The US Supreme Court, in its judgment on 29 June 2026, held that 'the FTC has accumulated vast rulemaking, enforcement and adjudicatory powers' and that it 'unquestionably exercises executive power, and must therefore be controlled by the Chief Executive, in whom such power is vested'³. The US Supreme Court therefore concluded that executive officers are subject to the President's superintendence, including the power to remove them.

The EDPB wishes to highlight that the existence and effective functioning of one or more independent supervisory authorities in the third country, with responsibility for ensuring and enforcing compliance with the data protection rules, is one of the key elements to be taken into account when assessing the adequacy of the level of protection in a third country according to Article 45(2)(b) of Regulation (EU) 2016/679. It is also considered one of the key elements to ensure that data subjects in the EEA are guaranteed an essentially equivalent

¹ Supreme Court judgment No. 25-332, https://www.supremecourt.gov/opinions/25pdf/25-332_qn12.pdf

² *Humphrey's Executor v. United States*, 295 U.S. 602 (1935).

³ Supreme Court judgment No. 25-332, Pages 2 and 27.

level of data protection in practice, and to ensure cooperation with the supervisory authorities of the Member States.

The EDPB respectfully notes that the European Commission, in the adequacy decision underpinning the EU-US Data Privacy Framework ('DPF')⁴, explicitly refers to the independence of the US authorities, including the FTC and that its five Commissioners may only be removed by the President for inefficiency, neglect of duty, or malfeasance in office⁵. Given the potential consequences that the US Supreme Court's judgment may have in the EEA and its considerable significance for the EDPB, the EDPB asks the European Commission to closely assess whether this development affects the functioning of Commission Implementing Decision EU 2023/1795 and would welcome relevant actions, including the continued sharing of information with the EDPB in a timely manner.

The EDPB is at your disposal to cooperate with your services and remains available for any further exchanges on this matter.

Yours sincerely,

Anu Talus

⁴ Commission Implementing Decision EU 2023/1795, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023D1795>

⁵ Commission Implementing Decision EU 2023/1795, §58 – 60.