

**Notice:** This document is informational only and does not contain legal advice. Decisions concerning the issues described below should be made in consultation with your qualified privacy counsel. This document does not reflect developments that may have occurred after the date below.



## FAQ

### Using OwnBackup for EU Personal Data After the EU Court of Justice Decision

July 20, 2020

#### Executive Summary

On July 16, 2020, the Court of Justice of the European Union invalidated the EU-US Privacy Shield Framework for transfers of EU personal data to the United States. At the same time, the Court confirmed the validity of the European Commission’s standard contractual clauses as a legal mechanism for international transfers of EU personal data, including to the United States. What this means for you is summarized in the table below:

<b>Does your company store personal data of EU residents in OwnBackup?</b>	<b>Has your company signed a data processing addendum with OwnBackup containing the EU standard contractual clauses?</b>	<b>What you need to do:</b>
Yes	Yes	You don’t need to do anything.
	No	You should sign OwnBackup’s <a href="#">Data Processing Addendum</a> containing the standard contractual clauses.
	Not sure	Please contact your OwnBackup Account Executive to inquire whether we have a DPA with standard contractual clauses
No		You don’t need to do anything.

## Table of Contents

GENERAL INFORMATION ABOUT THE CJEU'S DECISION ON INTERNATIONAL TRANSFERS OF EU PERSONAL DATA	2
What is the case about?	2
What was decided?	3
HOW THE COURT'S DECISION ON TRANSFERS OF EU PERSONAL DATA IMPACTS OWNBACKUP'S CUSTOMERS	3
How does this decision impact customers using OwnBackup's services, and what action do customers need to take?	3
Does my organization have an existing Data Processing Addendum?	3
Where is my data located?	4
EUROPEAN COMMISSION'S STANDARD CONTRACTUAL CLAUSES	4
What are the European Commission's standard contractual clauses?	4
To which services do the European Commission's standard contractual clauses apply?	4

# General Information about the CJEU's Decision on International Transfers of EU Personal Data

## What is the case about?

The case centers around whether the European Commission's standard contractual clauses are a lawful mechanism for transferring personal data outside of the EU. While not in the initial scope of the case, the CJEU also considered the validity of the EU-US Privacy Shield framework.

Under European data protection law, companies that transfer personal data outside of the EU must have a legal basis to ensure the continued protection of such data. Until this decision, the recognized legal bases included the European Commission's standard contractual clauses and the EU-US Privacy Shield framework. The European Commission's standard contractual clauses are legal contracts entered into between the parties that are transferring EU personal data outside of the EU. The EU-US Privacy Shield framework is an agreement between the US Department of Commerce and the European Commission to enable US companies with a mechanism to comply with EU data protection requirements when receiving EU personal data.

## What was decided?

The Court confirmed the validity of the European Commission's standard contractual clauses as a legal mechanism for the transfer of EU personal data, but invalidated the EU-US Privacy Shield framework. OwnBackup's customers may continue to use our services, relying on the European Commission's standard contractual clauses, which are included in our [Data Processing Addendum](#). The standard contractual clauses are a direct contract between OwnBackup and our customers committing OwnBackup to process our customers' personal data in accordance with EU privacy laws. The Court also said that organizations relying on the standard contractual clauses should consider the relevant aspects of the data importer's legal system, in particular any access by public authorities to the data transferred.

## How the Court's Decision on Transfers of EU Personal Data Impacts OwnBackup's Customers

How does this decision impact customers using OwnBackup's services, and what action do customers need to take?

- If a customer has signed a data processing addendum with OwnBackup that *contains* the EU standard contractual clauses, the decision does not affect the customer's use of OwnBackup services, and no action is needed.
- If a customer has signed a data processing addendum with OwnBackup that does *not* contain the standard contractual clauses, the customer should sign OwnBackup's [Data Processing Addendum](#) containing the standard contractual clauses.

- If a customer has *not* signed a data processing addendum with OwnBackup, the customer should sign OwnBackup's [Data Processing Addendum](#) containing the standard contractual clauses.
- If a customer is not storing personal data of EU residents in OwnBackup's services, the decision does not affect the customer's use of OwnBackup services, and no action is needed.

To see these alternatives in table format, please see the Executive Summary on page 1.

## Does my organization have an existing data processing addendum with the standard contractual clauses?

If you are unsure if you have a data processing addendum with the standard contractual clauses in place with OwnBackup, please reach out to your OwnBackup Account Executive.

## Where is my data located?

A customer's data is stored at the location of the OwnBackup instance selected by the customer during its initial setup of the OwnBackup services. OwnBackup currently offers data storage in Germany, the United Kingdom, the Netherlands, Canada, the United States, and Australia.

## European Commission's Standard Contractual Clauses

### What are the European Commission's standard contractual clauses?

The European Commission's standard contractual clauses are legal contracts entered into between parties that are transferring EU personal data outside of the EU. The standard contractual clauses were drafted and approved by the European Commission in 2010.

### To which services do the European Commission's standard contractual clauses apply?

The services to which the European Commission's standard contractual clauses apply can be found in Schedule 2 to our [Data Processing Addendum](#).