

European Commission Adopts South Korea Adequacy Decision

On 17 December 2021, the European Commission announced the adoption of an adequacy decision on existing standards for transfers of personal data from the EU to the Republic of Korea (South Korea). After the conclusion of adequacy talks in March 2021, the adoption of the decision marks the final step in the adequacy process (see, our note on [European Union and South Korea Conclude Adequacy Talks](#)). With the adequacy decision, personal data can be transferred freely from the EU to South Korea to be processed there.

Under the General Data Protection Regulation 679/2016 (**GDPR**), transfers of personal data outside the EU or European Economic Area are restricted. Article 45 of the GDPR nevertheless: (i) allows such transfers to any jurisdiction which the European Commission has decided “*ensures an adequate level of protection*”; and (ii) sets out the criteria that the European Commission shall take into account in its adequacy assessment.

The European Commission assessed the South Korean laws, in particular the recently updated Personal Information Protection Act (**PIPA**), and its adequacy decision confirms that these laws meet the GDPR requirements. As a result, personal data can be transferred without additional safeguards such as Standard Contractual Clauses or Binding Corporate Rules. In many cases, this will significantly reduce the administrative burden for transferring personal data between the EU and South Korea.

The adequacy decision has a broad scope of application, covering both commercial operators and the public sector. It supports European business operators transferring personal data to South Korea as part of their commercial operations and the European Commission underlines that it will also facilitate regulatory cooperation between European and Korean public authorities.

During the adequacy dialogue, both parties (i.e., the European Commission and the South Korean government) agreed on additional safeguards such as additional transparency requirements and onward data transfer requirements. These rules are binding and enforceable by the Korean data protection authority, the Personal Information Protection Commission (**PIPC**), and Korean Courts.

Concerning potential access to EU personal data transferred by Korean public authorities, the framework expresses trust in the substantial oversight role of the PIPC. It should also facilitate EU individuals’ redress rights by allowing them to complain to the PIPC.

The adequacy decision entered into force on 17 December 2021 and has an indefinite duration, but the European Commission will regularly review the adequacy decision to assess the functioning of the framework.

The adequacy decision can be downloaded [here](#). The European Commission also published a Q&A document on the topic which is available [here](#).