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**EU-US law enforcement and judicial cooperation in
criminal matters: compliance with EU personal data
protection standards**

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Abstract

Personal data protection standards – including the principles of purpose limitation and data retention – have been implemented in European Union's (EU) legal instruments based on the 1981 Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data. With regard to law enforcement and judicial cooperation in criminal matters, these legal instruments include a.o. the EU agreement on mutual assistance in criminal matters, the Eurojust and Europol instruments governing personal data exchange and the new framework decision on data protection in criminal matters. Studying the data protection provisions included in these instruments governing personal data exchange between the EU member states, it can be concluded that the EU's legal instruments do not demonstrate a full compliance with its standards on personal data protection originating from the 1981 Council of Europe Convention. Moreover, this approach is sustained when analyzing the legal instruments concluded between the EU and the United States of America (US) regarding law enforcement and judicial cooperation in criminal matters. Especially when considering the requirement of an adequate level of data protection necessary for allowing personal data transfers to third states, the cooperation between the EU and the US shows a lack of full adherence of the EU by its own data protection standards. This is demonstrated by analyzing the data protection provisions in the Europol-US agreements, the Eurojust-US agreement and the

EU-US agreement on mutual assistance (in the format generated by the combination of article 24 and 38 of the Treaty on the EU).

The future plans for cooperation presented by the EU-US High Level Contact Group and the development of a Euro-Atlantic area of cooperation proposed by the EU's Future Group on Home Affairs Policy, follow a similar line of reasoning.

Therefore, in addition to the internal EU law enforcement and judicial exchange of personal data in criminal matters, the lack of complete adherence to the data protection standards is visible in the EU's current transatlantic relations in criminal matters as well as in the plans for future cooperation with the US.

Keywords: law enforcement and judicial cooperation in criminal matters, data protection, data exchange, transatlantic relations

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