

Protection of personal data processed by the Union institutions and bodies

In view of revising the existing rules in the field and in line with the General Data Protection Regulation (GDPR), the European Commission made a proposal regulating the processing of personal data by the Union institutions, bodies, offices and agencies in 2016. Negotiations with the Council have produced a compromise text, which is expected to be voted on at first reading in the September plenary.

Background

Data protection is a fundamental right enshrined in both [primary](#) and [secondary](#) EU law, as developed by the [case-law](#) of the EU Court of Justice. EU institutions and bodies are not exempt from data protection requirements, but under [Regulation No 45/2001](#) are subject to specific rules, which this new proposal seeks to update. EU institutions process personal data in their daily activities (potentially concerning such people as EU staff, or experts registered in EU databases), in the context of which individual or public interests (e.g. access to documents, transparency) should be pursued in respect of the [right to data protection](#). A 2017 [report](#) by the European Data Protection Supervisor (EDPS), the independent authority with monitoring and advisory tasks established in 2001, confirms a positive trend among EU bodies towards compliance with these rules. Moreover, [Declaration No 21 of the Lisbon Treaty](#) recognises the necessity for specific rules on the protection of personal data in the fields of judicial and police cooperation, as does the [Law Enforcement Directive](#), advocating a change in the rules to provide a coherent approach also in these areas.

European Commission proposal

In January 2016, the Commission adopted a [proposal](#) to revise the 2001 regulation. The new rules aim at establishing an equivalent level of [data protection in the EU institutions](#) to that offered by the GDPR (e.g. by reinforcing transparency obligations and the remedies/sanctions system), while allowing the free flow of personal data between Member States and the institutions and among the institutions themselves. Compliance control over the institutions is entrusted to the [EDPS](#), whose powers and role are strengthened.

European Parliament initial position

The Civil Liberties (LIBE) Committee adopted a [report](#) in October 2017 complementing the proposal with changes aimed in particular at harmonising the data protection regime for all EU bodies, including operational data processed in the field of judicial and police cooperation (e.g. by Eurojust, Europol, the European Public Prosecutor's Office) and at limiting EU bodies' internal rules restricting the exercise of data subjects' rights.

Interinstitutional agreement

The co-legislators reached a provisional [agreement](#) in May 2018, endorsed by the Civil Liberties, Justice & Home Affairs (LIBE) Committee in July, and now awaiting Parliament's approval in September 2018. The compromise includes a new chapter on operational data processed by EU bodies carrying out law enforcement activities, without prejudice to their prevailing specific data protection norms. The confidentiality of e-communications, subject of a [separate proposal](#), has also to be taken into account.

First reading report: [2017/002\(COD\)](#); Committee responsible: LIBE; Rapporteur: Cornelia Ernst (GUE/NGL, Germany).

See also our ['EU Legislation in Progress briefing'](#).

