



2017/0002(COD)

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AMENDMENTS

2 - 104

Draft opinion
Angel Dzhambazki
(PE605.974v01-00)

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data

Proposal for a regulation
(COM(2017)0008 – C8-0008/2017 – 2017/0002(COD))

Amendment 2
Daniel Buda

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union (the ‘Charter’) and Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) provide that everyone has the right to the protection of personal data concerning them.

Amendment

(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union (the ‘Charter’) and Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) provide that everyone has the right to the protection of personal data concerning them. ***This right is also guaranteed under Article 8 of the European Convention on Human Rights.***

Or. ro

Amendment 3
Daniel Buda

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) Regulation (EC) No 45/2001 of the European Parliament and of the Council¹¹ provides natural persons with legally enforceable rights, specifies the data processing obligations of controllers within the Community institutions and bodies, and creates an independent supervisory authority, the European Data Protection Supervisor, responsible for monitoring the processing of personal data by the Union institutions and bodies. However, it does not apply to the processing of personal data in the course of an activity of Union institutions and bodies which fall outside the scope of Union law.

Amendment

(2) Regulation (EC) No 45/2001 of the European Parliament and of the Council provides natural persons with legally enforceable rights, specifies the data processing obligations of controllers within the Community institutions and bodies, and creates an independent supervisory authority, the European Data Protection Supervisor, responsible for monitoring the processing of personal data by the Union institutions and bodies. ***At the same time, Regulation (EC) No 45/2001 of the European Parliament and of the Council seeks to achieve two objectives: to protect the fundamental right to data protection and to guarantee the free flow of personal***

data throughout the Union. However, it does not apply to the processing of personal data in the course of an activity of Union institutions and bodies which fall outside the scope of Union law.

¹¹ Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1).

Or. ro

Amendment 4 **Daniel Buda**

Proposal for a regulation **Recital 5**

Text proposed by the Commission

(5) It is in the interest of a coherent approach to personal data protection throughout the Union, and of the free movement of personal data within the Union, to align as far as possible the data protection rules for Union institutions *and bodies* with the data protection rules adopted for the public sector in the Member States. Whenever the provisions of this Regulation are based on the same concept as the provisions of Regulation (EU) 2016/679, those two provisions should be interpreted homogeneously, in particular because the scheme of this Regulation should be understood as equivalent to the scheme of Regulation (EU) 2016/679.

Amendment

(5) It is in the interest of a coherent approach to personal data protection throughout the Union, and of the free movement of personal data within the Union, to align as far as possible the data protection rules for Union institutions, *bodies, offices and agencies* with the data protection rules adopted for the public sector in the Member States. Whenever the provisions of this Regulation are based on the same concept as the provisions of Regulation (EU) 2016/679, those two provisions should *under CJEU case law^{1a}*, be interpreted homogeneously, in particular because the scheme of this Regulation should be understood as equivalent to the scheme of Regulation (EU) 2016/679.

^{1a} See CJEU judgment of 9 March 2010, Commission v Germany, Case C-518/07, ECLI:EU:C:2010:125, paragraphs 26 and 28.

Or. ro

Amendment 5
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) It is in the interest of a coherent approach to personal data protection throughout the Union, and of the free movement of personal data within the Union, to align *as far as possible* the data protection rules for Union institutions and bodies with the data protection rules adopted for the public sector in the Member States. Whenever the provisions of this Regulation are based on the same concept as the provisions of Regulation (EU) 2016/679, those two provisions should be interpreted homogeneously, in particular because the scheme of this Regulation should be understood as equivalent to the scheme of Regulation (EU) 2016/679.

Amendment

(5) It is in the interest of a coherent approach to personal data protection throughout the Union, and of the free movement of personal data within the Union, to align the data protection rules for Union institutions and bodies with the data protection rules adopted for the public sector in the Member States. Whenever the provisions of this Regulation are based on the same concept as the provisions of Regulation (EU) 2016/679, those two provisions should be interpreted homogeneously, in particular because the scheme of this Regulation should be understood as equivalent to the scheme of Regulation (EU) 2016/679.

Or. en

Justification

The amendments translates the recital in a less 'limited' interpretation.

Amendment 6
Axel Voss

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) In Declaration No 21 on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation, annexed to the final act of the intergovernmental conference which adopted the Treaty of Lisbon, the conference acknowledged that specific rules on the protection of personal data and the free movement of personal data in the fields of judicial cooperation in criminal matters and police cooperation based on Article 16 TFEU could prove necessary because of the specific nature of those fields. This Regulation should therefore apply to Union agencies carrying out activities *in the fields of judicial cooperation in criminal matters and police cooperation only to the extent that Union law applicable to such agencies does not contain specific rules on the processing of personal data.*

Amendment

(8) In Declaration No 21 on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation, annexed to the final act of the intergovernmental conference which adopted the Treaty of Lisbon, the conference acknowledged that specific rules on the protection of personal data and the free movement of personal data in the fields of judicial cooperation in criminal matters and police cooperation based on Article 16 TFEU could prove necessary because of the specific nature of those fields. This Regulation should therefore *not apply to the processing of operational personal data, such as personal data processed for criminal investigation purposes by Union bodies, offices or agencies carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of Part Three TFEU where the acts establishing those bodies, offices or agencies provide for comprehensive data protection rules applicable to the processing of such data, such as the acts establishing Eurojust, Europol and the European Public Prosecutor's Office. Processing of administrative personal data by those bodies, offices or agencies, such as staff data, should be covered by this Regulation.*

Or. en

Amendment 7

Marie-Christine Boutonnet, Gilles Lebreton

Proposal for a regulation

Recital 8

Text proposed by the Commission

Amendment

(8) In Declaration No 21 on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation, annexed to the final act of the intergovernmental conference which adopted the Treaty of Lisbon, the conference acknowledged that specific rules on the protection of personal data and the free movement of personal data in the fields of judicial cooperation in criminal matters and police cooperation based on Article 16 TFEU could prove necessary because of the specific nature of those fields. *This Regulation should therefore apply to Union agencies carrying out activities in the fields of judicial cooperation in criminal matters and police cooperation only to the extent that Union law applicable to such agencies does not contain specific rules on the processing of personal data.*

(8) In Declaration No 21 on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation, annexed to the final act of the intergovernmental conference which adopted the Treaty of Lisbon, the conference acknowledged that specific rules on the protection of personal data and the free movement of personal data in the fields of judicial cooperation in criminal matters and police cooperation based on Article 16 TFEU could prove necessary because of the specific nature of those fields.

Or. fr

Amendment 8

Marie-Christine Boutonnet, Gilles Lebreton

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Directive (EU) 2016/680 provides harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. In order to foster the same level of protection for natural persons through legally enforceable rights throughout the Union and to prevent divergences hampering the exchange of personal data between Union

Amendment

deleted

agencies carrying out activities in the fields of judicial cooperation in criminal matters and police cooperation and competent authorities in Member States, the rules for the protection and the free movement of operational personal data processed by such Union agencies should draw on the principles underpinning this Regulation and be consistent with Directive (EU) 2016/680.

Or. fr

Amendment 9

Axel Voss

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Directive (EU) 2016/680 provides harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. In order to foster the same level of protection for natural persons through legally enforceable rights throughout the Union and to prevent divergences hampering the exchange of personal data between Union agencies carrying out activities *in the fields of judicial cooperation in criminal matters and police cooperation* and competent authorities in Member States, the rules for the protection and the free movement of operational personal data processed by such Union *agencies should draw on the principles underpinning this Regulation* and be consistent with Directive (EU) 2016/680.

Amendment

(9) Directive (EU) 2016/680 provides harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. In order to foster the same level of protection for natural persons through legally enforceable rights throughout the Union and to prevent divergences hampering the exchange of personal data between Union *bodies, offices and* agencies carrying out activities *which fall within the scope of Chapter 4 and 5 of Title V of Part Three TFEU* and competent authorities in Member States, the rules for the protection and the free movement of operational personal data processed by such Union *bodies, offices and agencies should* be consistent with Directive (EU) 2016/680.

Amendment 10

Axel Voss

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation. However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019 review Union acts which regulate processing by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a consistent approach to the protection of personal data in the area of judicial cooperation in criminal matters and police cooperation. *deleted*

Or. en

Amendment 11

Marie-Christine Boutonnet, Gilles Lebreton

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation. ***However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019 review Union acts which regulate processing by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a consistent approach to the protection of personal data in the area of judicial cooperation in criminal matters and police cooperation.***

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation.

Or. fr

Amendment 12
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation. However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019 review Union acts which regulate processing by the competent authorities for

Amendment

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation, ***as long as they are consistent with the provisions of Regulation (EU) 2016/679.*** However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019

the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a consistent approach to the protection of personal data in the area of judicial cooperation in criminal matters and police cooperation.

review Union acts which regulate processing by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a consistent approach to the protection of personal data in the area of judicial cooperation in criminal matters and police cooperation.

Or. en

Justification

Any data protection regime needs to be coherent with the General Data Protection Regulation.

Amendment 13 **Daniel Buda**

Proposal for a regulation **Recital 10**

Text proposed by the Commission

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation. However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019 review Union acts which regulate processing by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of

Amendment

(10) Where the founding act of a Union agency carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of the Treaty lays down a standalone data protection regime for the processing of operational personal data such regimes should be unaffected by this Regulation. However, the Commission should, in accordance with Article 62 of Directive (EU) 2016/680, by 6 May 2019 review Union acts which regulate processing by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of

threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a consistent approach to the protection of personal data in the area of judicial cooperation in criminal matters and police cooperation.

threats to public security and, where appropriate, make the necessary proposals to amend those acts to ensure a ***coherent, transparent and*** consistent approach to the protection of personal data ***and the transmission thereof*** in the area of judicial cooperation in criminal matters and police cooperation.

Or. ro

Amendment 14

Axel Voss

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) This Regulation should apply to the processing of personal data by Union institutions, bodies, offices or agencies carrying out activities which fall within the scope of Chapter 2 of Title V TEU. However, this Regulation should not apply to the processing of personal data in the context of the tasks referred to in Articles 42(1), 43 and 44 TEU, which implement the common security and defence policy. Where appropriate, relevant proposals could be put forward to further regulate the processing of personal data in the field of the common security and defence policy.

Or. en

Amendment 15

Daniel Buda

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) Consent should be given by a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data relating to him or her, such as by a written statement, including by electronic means, or an oral statement. This could include ticking a box when visiting an internet website, choosing technical settings for information society services or another statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of his or her personal data. Silence, pre-ticked boxes or inactivity should not therefore constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, consent should be given for all of them. If the data subject's consent is to be given following a request by electronic means, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.

Amendment

(14) Consent should be given by a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data relating to him or her, such as by a written statement, including by electronic means, or an oral statement. This could include ticking a box when visiting an internet website, choosing technical settings for information society services or another statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of his or her personal data. Silence, pre-ticked boxes or inactivity should not therefore constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, consent should be given for all of them. If the data subject's consent is to be given following a request by electronic means, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided. ***At the same time, the data subject may withdraw consent at any time without affecting the legality of using data based on consent prior to withdrawal thereof.***

Or. ro

Amendment 16
Daniel Buda

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The Union law ***including the internal rules*** referred to in this Regulation should be clear and precise and its

Amendment

(18) The Union law referred to in this Regulation should be clear and precise and its application should be foreseeable to

application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the European Union and the European Court of Human Rights.

persons subject to it, in accordance with the case-law of the Court of Justice of the European Union and the European Court of Human Rights. *The same applies to rules applicable inter-institutional level and those laid down under the national law of the Member States.*

Or. ro

Amendment 17

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) The Union law *including the internal rules referred to in this Regulation* should be clear and precise and its application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the European Union and the European Court of Human Rights.

Amendment

(18) The Union law should be clear and precise and its application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the European Union and the European Court of Human Rights.

Or. en

Amendment 18

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) The Union law *including the internal rules* referred to in this Regulation should be clear and precise and its application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the

Amendment

(18) The Union law referred to in this Regulation should be clear and precise and its application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the European Union and the European Court of Human Rights.

Amendment 19

Axel Voss

Proposal for a regulation

Recital 21

Text proposed by the Commission

Amendment

(21) Children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. Such specific protection should, in particular, apply to creating personality profiles and the collection of personal data with regard to children when using services offered directly to a child on websites of Union institutions and bodies, such as interpersonal communication services or online selling of tickets and when the processing of personal data is based on consent.

deleted

Amendment 20

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 22

Text proposed by the Commission

Amendment

(22) When recipients established in the Union and subject to Regulation (EU) 2016/679 or Directive (EU) 2016/680, would like to have personal data

(22) When recipients established in the Union and subject to Regulation (EU) 2016/679 or Directive (EU) 2016/680, would like to have personal data

transmitted to them by Union institutions and bodies, those recipients should **demonstrate that the** transmission is necessary for the attainment of their objective, is proportionate and does not go beyond what is necessary to attain that objective. Union institutions and bodies should demonstrate such necessity when they themselves initiate the transmission, in compliance with the principle of transparency.

transmitted to them by Union institutions and bodies, those recipients should **provide the controller with a reasoned request for transmission which should serve as a basis for the controller to assess whether that** transmission is necessary for the attainment of their objective, is proportionate and does not go beyond what is necessary to attain that objective. Union institutions and bodies should demonstrate such necessity when they themselves initiate the transmission, in compliance with the principle of transparency.

Or. en

Amendment 21 Jens Rohde, Jean-Marie Cavada

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection as the context of their processing could create significant risks to the fundamental rights and freedoms. Those personal data should include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance by the Union of theories which attempt to determine the existence of separate human races. The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique identification or authentication of a natural person. In addition to the specific requirements for processing of sensitive

Amendment

(23) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection as the context of their processing could create significant risks to the fundamental rights and freedoms. **Such personal data should not be processed unless processing is allowed in specific cases as laid down in this Regulation.** Those personal data should include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance by the Union of theories which attempt to determine the existence of separate human races. The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique

data, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing. Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided, inter alia, where the data subject gives his or her explicit consent or in respect of specific needs in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.

identification or authentication of a natural person. In addition to the specific requirements for processing of sensitive data, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing. Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided, inter alia, where the data subject gives his or her explicit consent or in respect of specific needs in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.

Or. en

Justification

As a general rule, personal data should not be processed, until there is a special need identified and laid down in this specific law.

Amendment 22

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection as the context of their processing could create significant risks to the fundamental rights and freedoms. Those personal data should include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance by the Union of theories which attempt to determine the existence of separate human races. The processing of

Amendment

(23) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection as the context of their processing could create significant risks to the fundamental rights and freedoms. ***Such personal data should not be processed unless processing is allowed in specific cases as set out in this Regulation.*** Those personal data should include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance

photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique identification or authentication of a natural person. In addition to the specific requirements for processing of sensitive data, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing. Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided, inter alia, where the data subject gives his or her explicit consent or in respect of specific needs in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.

by the Union of theories which attempt to determine the existence of separate human races. The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique identification or authentication of a natural person. In addition to the specific requirements for processing of sensitive data, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing. Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided, inter alia, where the data subject gives his or her explicit consent or in respect of specific needs in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.

Or. en

Amendment 23

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Special categories of personal data which merit higher protection should be processed for health-related purposes only where necessary to achieve those purposes for the benefit of natural persons and society as a whole, in particular in the context of the management of health or social care services and systems. Therefore, this Regulation should provide

for harmonised conditions for the processing of special categories of personal data concerning health, in respect of specific needs, in particular where the processing of such data is carried out for certain health-related purposes by persons subject to a legal obligation of professional secrecy. Union law should provide for specific and suitable measures so as to protect the fundamental rights and the personal data of natural persons.

Or. en

Amendment 24

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. Such processing should be subject to suitable and specific measures so as to protect the rights and freedoms of natural persons. In that context, ‘public health’ should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council¹⁵, namely all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality. Such processing of data concerning health for reasons of public interest should not **result in personal data**

Amendment

(24) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. Such processing should be subject to **proportionate**, suitable and specific measures so as to protect the rights and freedoms of natural persons. In that context, ‘public health’ should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council¹⁵, namely all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality. Such processing of data concerning health for reasons of public interest should not **lead to**

being processed for other purposes by third parties.

any further processing for other purposes, *including processing* by third parties.

¹⁵ Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

¹⁵ Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

Or. en

Justification

Health data is specifically sensitive and the processing of such sensitive data needs specific restrictions to the absolute necessary. Such data may in particular not end up in the possession of third parties who would further process it.

Amendment 25

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. Such processing should be subject to suitable and specific measures so as to protect the rights and freedoms of natural persons. In that context, ‘public health’ should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council¹⁵, namely all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes

Amendment

(24) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. Such processing should be subject to suitable and specific measures so as to protect the rights and freedoms of natural persons. In that context, ‘public health’ should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council¹⁵, namely all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes

of mortality. Such processing of data concerning health for reasons of public interest should not result in personal data being processed for other purposes *by third parties*.

¹⁵ Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

of mortality. Such processing of data concerning health for reasons of public interest should not result in personal data being processed for other purposes.

¹⁵ Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

Or. en

Amendment 26

Daniel Buda

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) Where personal data might lawfully be processed because processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, a data subject should, nevertheless, be entitled to object to the processing of any personal data relating to his or her particular situation. It should be for the controller to demonstrate that its compelling legitimate interest overrides *the interests or the fundamental rights and freedoms* of the data subject.

Amendment

(35) Where personal data might lawfully be processed because processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, a data subject should, nevertheless, be entitled to object to the processing of any personal data relating to his or her particular situation. It should be for the controller to demonstrate that its compelling legitimate interest overrides *the right to personal data protection* of the data subject.

Or. ro

Amendment 27

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Recital 37 – paragraph 1

Text proposed by the Commission

Legal acts adopted on the basis of the Treaties *or internal rules of Union institutions and bodies* may impose restrictions concerning specific principles and the rights of information, access to and rectification or erasure of personal data, the right to data portability, confidentiality of electronic communications as well as the communication of a personal data breach to a data subject and certain related obligations of the controllers, as far as necessary and proportionate in a democratic society to safeguard public security, the prevention, investigation and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, including the protection of human life especially in response to natural or manmade disasters, internal security of Union institutions and bodies, other important objectives of general public *interest of the Union or of a Member State, in particular an important economic or financial* interest of the Union or of a Member State, the keeping of public registers kept for reasons of general public interest or the protection of the data subject or the rights and freedoms of others, including social protection, public health and humanitarian purposes.

Amendment

Legal acts adopted on the basis of the Treaties may impose restrictions concerning specific principles and the rights of information, access to and rectification or erasure of personal data, the right to data portability, confidentiality of electronic communications as well as the communication of a personal data breach to a data subject and certain related obligations of the controllers, *for a limited period of time and* as far as necessary and proportionate in a democratic society to safeguard public security, the prevention, investigation and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, including the protection of human life especially in response to natural or manmade disasters, internal security of Union institutions and bodies, other important objectives of general public interest of the Union or of a Member State, the keeping of public registers kept for reasons of general public interest or the protection of the data subject or the rights and freedoms of others, including social protection, public health and humanitarian purposes.

Or. en

Justification

Restrictions should be based on the Treaty solely, not on acts based on internal Union rules. A general public interest should be sufficient here.

Amendment 28

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Recital 37 – paragraph 1

Text proposed by the Commission

Legal acts adopted on the basis of the Treaties *or internal rules of Union institutions and bodies* may impose restrictions concerning specific principles and the rights of information, access to and rectification or erasure of personal data, the right to data portability, *confidentiality of electronic communications* as well as the communication of a personal data breach to a data subject and certain related obligations of the controllers, as far as necessary and proportionate in a democratic society to safeguard public security, the prevention, investigation and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, including the protection of human life especially in response to natural or manmade disasters, internal security of Union institutions and bodies, other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, the keeping of public registers kept for reasons of general public interest or the protection of the data subject or the rights and freedoms of others, including social protection, public health and humanitarian purposes.

Amendment

Legal acts adopted on the basis of the Treaties may impose restrictions concerning specific principles and the rights of information, access to and rectification or erasure of personal data, the right to data portability as well as the communication of a personal data breach to a data subject and certain related obligations of the controllers, as far as necessary and proportionate in a democratic society to safeguard public security, the prevention, investigation and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, including the protection of human life especially in response to natural or manmade disasters, internal security of Union institutions and bodies, other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, the keeping of public registers kept for reasons of general public interest or the protection of the data subject or the rights and freedoms of others, including social protection, public health and humanitarian purposes.

Or. en

Amendment 29
Max Andersson

Proposal for a regulation
Recital 37 – paragraph 2

Text proposed by the Commission

Amendment

Where a restriction is not provided for in legal acts adopted on the basis of the Treaties or their internal rules, Union institutions and bodies may in a specific case impose an ad hoc restriction concerning specific principles and the rights of data subject if such a restriction respects the essence of the fundamental rights and freedoms and, in relation to a specific processing operation, is necessary and proportionate in a democratic society to safeguard one or more of the objectives mentioned in paragraph 1. The restriction should be notified to the data protection officer. All restrictions should be in accordance with the requirements set out in the Charter and in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

deleted

Or. en

Amendment 30

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 37 – paragraph 2

Text proposed by the Commission

Amendment

Where a restriction is not provided for in legal acts adopted on the basis of the Treaties or their internal rules, Union institutions and bodies may in a specific case impose an ad hoc restriction concerning specific principles and the rights of data subject if such a restriction respects the essence of the fundamental rights and freedoms and, in relation to a specific processing operation, is necessary and proportionate in a democratic society to safeguard one or more of the objectives mentioned in paragraph 1. The restriction should be notified to the data protection

deleted

officer. All restrictions should be in accordance with the requirements set out in the Charter and in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Or. en

Amendment 31

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations. Union institutions and bodies should be able to establish a central register of records of their processing activities. For reasons of transparency, they should *also be able to make such a register public.*

Amendment

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations. Union institutions and bodies should be able to establish a central register of records of their processing activities. For reasons of transparency, they should *make such a register public. Data subjects should have the possibility to consult that register through the data protection officer of the controller.*

Or. en

Amendment 32

Daniel Buda

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations. Union institutions and bodies should **be able to** establish a central register of records of their processing activities. For reasons of transparency, they should also **be able to** make such a register public.

Amendment

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations. Union institutions and bodies should establish a central register of records of their processing activities. For reasons of transparency, they should also make such a register public **so that the individual concerned can consult it without prejudice to the rights of other concerned parties.**

Or. ro

Amendment 33

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations.

Amendment

(42) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records, on request, available to it, so that they might serve for monitoring those processing operations.

Union institutions and bodies should be able to establish a central register of records of their processing activities. For reasons of transparency, they should also be able to make such a register public.

Union institutions and bodies should be able to establish a central register of records of their processing activities. For reasons of transparency, they should also be able to make such a register public.
Data subjects should be able to consult the register upon request.

Or. en

Justification

Data subjects should be able to access their own personal data stored in this data base.

Amendment 34

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) Union institutions and bodies should ensure the confidentiality of electronic communications as provided for by Article 7 of the Charter. In particular, Union institutions and bodies should ensure the security of their electronic communication networks, ***protect the information related to end-users' terminal equipment accessing their publicly available websites and mobile applications in accordance with Regulation (EU) XXXX/XX [new ePrivacy Regulation]*** and protect the personal data in directories of users.

Amendment

(44) Union institutions and bodies should ensure the confidentiality of electronic communications as provided for by Article 7 of the Charter. In particular, Union institutions and bodies should ensure the security of their electronic communication networks and protect the personal data in directories of users.

Or. en

Amendment 35

Daniel Buda

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) The controller should communicate to the data subject a personal data breach, without undue delay, where that personal data breach is likely to result in a high risk to the rights and freedoms of the natural person in order to allow him or her to take the necessary precautions. The communication should describe the nature of the personal data breach as well as recommendations for the natural person concerned to mitigate potential adverse effects. Such communications to data subjects should be made as soon as reasonably feasible and in close cooperation with the European Data Protection Supervisor, respecting guidance provided by it or by other relevant authorities such as law-enforcement authorities.

Amendment

(46) The controller should communicate to the data subject a personal data breach, without undue delay, where that personal data breach is likely to result in a high risk to the rights and freedoms of the natural person in order to allow him or her to take the necessary precautions. The communication *is confidential and* should describe the nature of the personal data breach as well as recommendations for the natural person concerned to mitigate potential adverse effects. Such communications to data subjects should be made as soon as reasonably feasible and in close cooperation with the European Data Protection Supervisor, respecting guidance provided by it or by other relevant authorities such as law-enforcement authorities.

Or. ro

Amendment 36
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) Regulation (EU) 2016/679 established the European Data Protection Board as an independent body of the Union with legal personality. The Board should contribute to the consistent application of Regulation (EU) 2016/679 and Directive 2016/680 throughout the Union, including by advising the Commission. At the same time, the European Data Protection Supervisor should continue to exercise its supervisory and advisory functions in respect of all Union institutions and bodies, including on its own initiative or upon

Amendment

(50) Regulation (EU) 2016/679 established the European Data Protection Board as an independent body of the Union with legal personality. The Board should contribute to the consistent application of Regulation (EU) 2016/679 and Directive 2016/680 throughout the Union, including by advising the Commission. At the same time, the European Data Protection Supervisor should continue to exercise its supervisory and advisory functions in respect of all Union institutions and bodies, including on its own initiative or upon

request. In order to ensure consistency of data protection rules throughout the Union, a consultation by the Commission should be obligatory *following the adoption of* legislative acts or during the preparation of delegated acts and implementing acts as defined in Article 289, 290 and 291 TFEU and *following the adoption of* recommendations and proposals relating to agreements with third countries and international organisations as provided for in Article 218 TFEU, which have an impact on the right to personal data protection. In such cases, the Commission should be obliged to consult the European Data Protection Supervisor, except when the Regulation (EU) 2016/679 provides for mandatory consultation of the European Data Protection Board, for example on adequacy decisions or delegated acts on standardised icons and requirements for certification mechanisms. Where the act in question is of particular importance for the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission should be able, in addition, to consult the European Data Protection Board. In those cases, the European Data Protection Supervisor should, as a member of the European Data Protection Board, coordinate its work with the latter with a view to issue a joint opinion. The European Data Protection Supervisor, and where applicable, the European Data Protection Board should provide its written advice within eight weeks. That time-frame should be shorter in case of urgency or otherwise appropriate, for example when the Commission is preparing delegated and implementing acts.

request. In order to ensure consistency of data protection rules throughout the Union, a consultation by the Commission should be obligatory *when adopting proposals for* legislative acts or during the preparation of delegated acts and implementing acts as defined in Article 289, 290 and 291 TFEU and *when adopting* recommendations and proposals relating to agreements with third countries and international organisations as provided for in Article 218 TFEU, which have an impact on the right to personal data protection. In such cases, the Commission should be obliged to consult the European Data Protection Supervisor, except when the Regulation (EU) 2016/679 provides for mandatory consultation of the European Data Protection Board, for example on adequacy decisions or delegated acts on standardised icons and requirements for certification mechanisms. Where the act in question is of particular importance for the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission should be able, in addition, to consult the European Data Protection Board. In those cases, the European Data Protection Supervisor should, as a member of the European Data Protection Board, coordinate its work with the latter with a view to issue a joint opinion. The European Data Protection Supervisor, and where applicable, the European Data Protection Board should provide its written advice within eight weeks. That time-frame should be shorter in case of urgency or otherwise appropriate, for example when the Commission is preparing delegated and implementing acts.

Or. en

Amendment 37
Daniel Buda

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) When personal data are transferred from the Union institutions and bodies to controllers, processors or other recipients in third countries or to international organisations, the level of protection of natural persons ensured in the Union by this Regulation should **not be undermined**, including in cases of onward transfers of personal data from the third country or international organisation to controllers, processors in the same or another third country or international organisation. In any event, transfers to third countries and international organisations may only be carried out in full compliance with this Regulation. A transfer could take place only if, subject to the other provisions of this Regulation, the conditions laid down in the provisions of this Regulation relating to the transfer of personal data to third countries or international organisations are complied with by the controller or processor.

Amendment

(52) When personal data are transferred from the Union institutions and bodies to controllers, processors or other recipients in third countries or to international organisations, the level of protection of natural persons ensured in the Union by this Regulation should be **guaranteed**, including in cases of onward transfers of personal data from the third country or international organisation to controllers, processors in the same or another third country or international organisation. In any event, transfers to third countries and international organisations may only be carried out in full compliance with this Regulation **and with the fundamental rights and freedoms enshrined in the EU Charter of Fundamental Rights**. A transfer could take place only if, subject to the other provisions of this Regulation, the conditions laid down in the provisions of this Regulation relating to the transfer of personal data to third countries or international organisations are complied with by the controller or processor.

Or. ro

Amendment 38

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) When personal data are transferred from the Union institutions and bodies to controllers, processors or other recipients in third countries or to international

Amendment

(52) When personal data are transferred from the Union institutions and bodies to controllers, processors or other recipients in third countries or to international

organisations, the level of protection of natural persons ensured in the Union by this Regulation should not be undermined, including in cases of onward transfers of personal data from the third country or international organisation to controllers, processors in the same or another third country or international organisation. In any event, transfers to third countries and international organisations may only be carried out in full compliance with this Regulation. A transfer could take place only if, subject to the other provisions of this Regulation, the conditions laid down in the provisions of this Regulation relating to the transfer of personal data to third countries or international organisations are complied with by the controller or processor.

organisations, the level of protection of natural persons ensured in the Union by this Regulation should not be undermined, including in cases of onward transfers of personal data from the third country or international organisation to controllers, processors in the same or another third country or international organisation. In any event, transfers to third countries and international organisations may only be carried out in full compliance with this Regulation **and in accordance with Regulation (EU) 2016/679**. A transfer could take place only if, subject to the other provisions of this Regulation, the conditions laid down in the provisions of this Regulation relating to the transfer of personal data to third countries or international organisations are complied with by the controller or processor.

Or. en

Amendment 39
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Recital 54

Text proposed by the Commission

(54) In the absence of an adequacy decision, the controller or processor should take measures to compensate for the lack of data protection in a third country by way of appropriate safeguards for the data subject. Such appropriate safeguards can consist of making use of standard data protection clauses adopted by the Commission, standard data protection clauses adopted by the European Data Protection Supervisor or contractual clauses authorised by the European Data Protection Supervisor. Where the processor is not a Union Institution or body those appropriate

Amendment

deleted

safeguards can also consist of binding corporate rules, codes of conduct and certification mechanisms used for international transfers under Regulation (EU) 2016/679. Those safeguards should ensure compliance with data protection requirements and the rights of the data subjects appropriate to processing within the Union, including the availability of enforceable data subject rights and of effective legal remedies, including to obtain effective administrative or judicial redress and to claim compensation, in the Union or in a third country. They should relate in particular to compliance with the general principles relating to personal data processing, the principles of data protection by design and by default. Transfers may also be carried out by Union institutions and bodies to public authorities or bodies in third countries or to international organisations with corresponding duties or functions, including on the basis of provisions to be inserted into administrative arrangements, such as a memorandum of understanding, providing for enforceable and effective rights for data subjects. Authorisation by the European Data Protection Supervisor should be obtained when the safeguards are provided for in administrative arrangements that are not legally binding.

Or. en

Amendment 40

Axel Voss

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down rules relating to the protection of natural persons

Amendment

1. This Regulation lays down rules relating to the protection of natural persons

with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and rules relating to the free movement of personal data between themselves or to recipients established in the Union ***and subject to Regulation (EU) 2016/679¹⁸ or the provisions of national law adopted pursuant to Directive (EU) 2016/680¹⁹.***

with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and rules relating to the free movement of personal data between themselves or to recipients established in the Union.

¹⁸ ***Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88.***

¹⁹ ***Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89–131.***

Or. en

Amendment 41
Daniel Buda

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

Amendment

(2) This Regulation protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.

(2) This Regulation protects fundamental rights and freedoms of natural persons *enshrined in the EU Charter of Fundamental Rights* and in particular their right to the protection of personal data.

Or. ro

Amendment 42

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data by all Union institutions and bodies *insofar as such processing is carried out in the exercise of activities which fall, wholly or partially within the scope of Union law.*

Amendment

1. This Regulation applies to the processing of personal data by all Union institutions and bodies.

Or. en

Justification

The processing of personal data is specifically sensitive and the scope of this regulation should therefore not be ambiguous.

Amendment 43

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data by all Union institutions and bodies *insofar as such processing is carried out in the exercise of activities which fall, wholly or partially within the scope of Union law.*

Amendment

1. This Regulation applies to the processing of personal data by all Union institutions and bodies.

Amendment 44
Axel Voss

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data by all Union institutions and bodies *insofar as such processing is carried out in the exercise of activities which fall, wholly or partially within the scope of Union law.*

Amendment

1. This Regulation applies to the processing of personal data by all Union institutions and bodies, *except Eurojust, Europol and the European Public Prosecutor's Office. Specific data protection rules apply to those Union bodies.*

Or. en

Amendment 45
Axel Voss

Proposal for a regulation
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Eurojust, Europol and the European Public Prosecutor's Office shall only be covered by this Regulation for the processing of administrative personal data. Separate provisions apply to the processing of operational personal data by Eurojust, Europol and the European Public Prosecutor's Office. Those Union bodies are not subject to this Regulation for the processing of operational personal data.

Or. en

Amendment 46

Marie-Christine Boutonnet, Gilles Lebreton

Proposal for a regulation

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Regulation shall not apply to the processing of operational data by EU agencies and bodies active in the field of judicial cooperation in criminal matters and police cooperation.

Or. fr

Amendment 47

Max Andersson

Proposal for a regulation

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Regulation shall also apply to Union agencies carrying out activities which fall within the scope of Chapters 4 and 5 of Title V of Part Three TFEU, including where the founding acts of those Union agencies lay down a standalone data protection regime for the processing of operational personal data. The provisions of this Regulation shall take precedence over the conflicting provisions in the founding acts of those Union agencies.

Or. en

Amendment 48

Axel Voss

Proposal for a regulation

Article 3 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) 'operational personal data' means all personal data processed by the Union bodies, offices or agencies carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title V of Part Three TFEU to meet the objectives laid down in the acts establishing those bodies, offices or agencies;

Or. en

Amendment 49

Axel Voss

Proposal for a regulation

Article 3 – paragraph 2 – point a b (new)

Text proposed by the Commission

Amendment

(ab) 'administrative personal data' means all personal data processed by the Union bodies, offices or agencies which fall within the scope of this Regulation;

Or. en

Amendment 50

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 4 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they *were collected or for which they are further* processed, are erased or rectified without delay ('accuracy');

(d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that *personal* data which are inaccurate or incomplete, having regard to the purposes for which they *are* processed, are erased or rectified without delay ('accuracy');

Or. en

Amendment 51

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

2. The tasks referred to in point (a) of paragraph 1 shall be laid down in Union law.

Amendment

2. The tasks referred to in point (a) of paragraph 1 shall be laid down in Union law. ***The basis for the processing referred to in point (b) of paragraph 1 shall be laid down in Union or Member State law to which the controller is subject.***

Or. en

Amendment 52

Axel Voss

Proposal for a regulation

Article 8

Text proposed by the Commission

Article 8

Conditions applicable to children's consent in relation to information society services

1. ***Where point (d) of Article 5(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 13 years old. Where the child is below the age of 13 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.***

2. ***The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the***

Amendment

deleted

holder of parental responsibility over the child, taking into consideration available technology.

3. Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.

Or. en

Amendment 53
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Amendment

Conditions applicable to *children's* consent in relation to information society services

Conditions applicable to *child's* consent in relation to information society services

Or. en

Justification

This term is used also in the GDPR, Article 8, and should be used here consistently.

Amendment 54
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Where point (d) of Article 5(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least **13** years old. Where the child is below the age of **13** years, such processing shall be lawful only if and to the extent that

1. Where point (d) of Article 5(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least **16** years old. Where the child is below the age of **16** years, such processing shall be lawful only if and to the extent that

consent is given or authorised by the holder of parental responsibility over the child.

consent is given or authorised by the holder of parental responsibility over the child.

Or. en

Justification

The GDPR foresees in Art. 8 paragraph 1 that the processing of personal data of a child shall be lawfully only if the child is at least 16 years old. This Regulation should be coherent with the GDPR.

Amendment 55
Daniel Buda

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

(1) Where point (d) of Article 5(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least **13** years old. Where the child is below the age of **13** years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.

Amendment

(1) Where point (d) of Article 5(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least **16** years old. Where the child is below the age of **16** years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.

Or. ro

Amendment 56
Jiří Maštálka

Proposal for a regulation
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Transfer of personal data between Union institutions and bodies

1. *Without prejudice to Articles 4, 5, 6 and 10, personal data shall only be transferred within or to other Union institutions or bodies if the data are necessary for the legitimate performance of tasks covered by the competence of the recipient.*

2. *Where the data are transferred under this Article following a request from the recipient, both the controller and the recipient shall bear the responsibility for the legitimacy of this transfer.*

The controller shall be required to verify the competence of the recipient and to make a provisional evaluation of the necessity for the transfer of the data. If doubts arise as to this necessity, the controller shall seek further information from the recipient.

The recipient shall ensure that the necessity for the transfer of the data can be subsequently verified.

3. *The recipient shall process the personal data only for the purposes for which they were transferred.*

Or. en

Amendment 57
Axel Voss

Proposal for a regulation
Article 9 – title

Text proposed by the Commission

Transmissions of personal data to recipients, other than Union institutions and bodies, established in the Union *and subject to Regulation (EU) 2016/679 or Directive (EU) 2016/680*

Amendment

Transmissions of personal data to recipients, other than Union institutions and bodies, established in the Union

Or. en

Amendment 58

Axel Voss

Proposal for a regulation

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) that it is necessary to have the data transmitted, *it is proportionate* to the *purposes of the transmission and if* there is *no* reason to assume that the data subject's rights and freedoms and legitimate interests might be prejudiced.

Amendment

(b) that it is *strictly* necessary to have the data transmitted *having regard* to the *recipient's objectives, and that* there is *not any* reason to assume that the data subject's rights and freedoms and legitimate interests might be prejudiced *by the requested data transfer or the reasonably to be expected further use of that personal data by the recipient.*

Or. en

Amendment 59

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) that it is necessary to have the data transmitted, *it is proportionate to the purposes of* the transmission *and if there is no reason to assume that the data subject's rights and freedoms and legitimate interests might be prejudiced.*

Amendment

(b) that it is necessary to have the data transmitted, *in particular where* the transmission *serves a public interest such as transparency or good administration, and it is proportionate to the purposes of the transmission.*

Or. en

Amendment 60

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

3. Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union **law**.

Amendment

3. Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union **or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies**.

Or. en

Amendment 61

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

Processing of personal data relating to criminal convictions and offences or related security measures pursuant to Article 5(1) may be carried out only if authorised by Union law, **which may include internal rules**, providing the appropriate specific safeguards for the rights and freedoms of data subjects.

Amendment

Processing of personal data relating to criminal convictions and offences or related security measures pursuant to Article 5(1) may be carried out only if authorised by Union law providing the appropriate specific safeguards for the rights and freedoms of data subjects.

Or. en

Amendment 62

Axel Voss

Proposal for a regulation

Article 16 – paragraph 5 – point b

Text proposed by the Commission

(b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing;

Amendment

(b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing. ***In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interest, including making the information publicly available;***

Or. en

Amendment 63
Daniel Buda

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

(1) The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on point (a) of Article 5(1), including profiling based on that provision. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override ***the interests, rights and freedoms of the data subject***, or for the establishment, exercise or defence of legal claims.

Amendment

(1) The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on point (a) of Article 5(1), including profiling based on that provision. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the ***right of the individual concerned to the protection of personal data***, or for the establishment, exercise or defence of legal claims.

Or. ro

Amendment 64
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. Legal acts adopted on the basis of the Treaties *or, in matters relating to the operation of the Union institutions and bodies, internal rules laid down by the latter* may restrict the application of Articles 14 to 22, 34 and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, when such a restriction respects *the essence of* the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

Amendment

1. Legal acts adopted on the basis of the Treaties may restrict the application of Articles 14 to 22, 34 and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, when such a restriction respects the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

Or. en

Justification

The amendment seeks to align the provisions of this Regulation with the provisions of GDPR, following the EDPS opinion.

Amendment 65
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. Legal acts adopted on the basis of the Treaties *or, in matters relating to the operation of the Union institutions and bodies, internal rules laid down by the latter* may restrict the application of Articles 14 to 22, ~~34~~ and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, when such a restriction respects the essence of

Amendment

1. Legal acts adopted on the basis of the Treaties may restrict the application of Articles 14 to 22 and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and

the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

proportionate measure in a democratic society to safeguard:

Or. en

Amendment 66

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 25 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In particular, any legal act referred to in paragraph 1 shall contain specific provisions at least, where relevant, as to :

(a) the purposes of the processing or categories of processing;

(b) the categories of personal data;

(c) the scope of the restriction introduced;

(d) the safeguards to prevent abuse or unlawful access or transfer;

(e) the specification of the controller or categories of controllers;

(f) the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing;

(g) the risks to the rights and freedoms of data subjects; and

(h) the right of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.

Or. en

Amendment 67

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Daniel Buda

Proposal for a regulation

Article 25 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) *In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, as to:*

(a) *the purposes of the processing or categories of processing;*

(b) *the categories of personal data;*

(c) *the scope of the restrictions introduced;*

(d) *the safeguards to prevent abuse or unlawful access or transfer;*

(e) *the specification of the controller or categories of controllers;*

(f) *the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing;*

(g) *the risks to the rights and freedoms of data subjects. and*

(h) *the right of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.*

Or. ro

Amendment 68

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 25 – paragraph 2

Text proposed by the Commission

Amendment

2. *Where a restriction is not provided for by a legal act adopted on the basis of*

deleted

the Treaties or by an internal rule in accordance with paragraph 1, the Union institutions and bodies may restrict the application of Articles 14 to 22, 34 and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, if such a restriction respects the essence of the fundamental rights and freedoms, in relation to a specific processing operation, and is a necessary and proportionate measure in a democratic society to safeguard one or more of the objectives referred to in paragraph 1. The restriction shall be notified to the competent data protection officer.

Or. en

Amendment 69

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation Article 25 – paragraph 2

Text proposed by the Commission

Amendment

2. *Where a restriction is not provided for by a legal act adopted on the basis of the Treaties or by an internal rule in accordance with paragraph 1, the Union institutions and bodies may restrict the application of Articles 14 to 22, 34 and 38, as well as Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22, if such a restriction respects the essence of the fundamental rights and freedoms, in relation to a specific processing operation, and is a necessary and proportionate measure in a democratic society to safeguard one or more of the objectives referred to in paragraph 1. The restriction shall be*

deleted

notified to the competent data protection officer.

Or. en

Justification

The amendment seeks to align the provisions of this Regulation with the provisions of GDPR, following the EDPS opinion.

Amendment 70

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

3. Where personal data are processed for scientific or historical research purposes or statistical purposes, Union law, ***which may include internal rules***, may provide for derogations from the rights referred to in Articles 17, 18, 20 and 23 subject to the conditions and safeguards referred to in Article 13 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Amendment

3. Where personal data are processed for scientific or historical research purposes or statistical purposes, Union law may provide for derogations from the rights referred to in Articles 17, 18, 20 and 23 subject to the conditions and safeguards referred to in Article 13 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Or. en

Amendment 71

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 25 – paragraph 4

Text proposed by the Commission

4. Where personal data are processed for archiving purposes in the public interest, Union law, ***which may include***

Amendment

4. Where personal data are processed for archiving purposes in the public interest, Union law may provide for

internal rules, may provide for derogations from the rights referred to in Articles 17, 18, 20, 21, 22 and 23 subject to the conditions and safeguards referred to in Article 13 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

derogations from the rights referred to in Articles 17, 18, 20, 21, 22 and 23 subject to the conditions and safeguards referred to in Article 13 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Or. en

Amendment 72

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 25 – paragraph 5

Text proposed by the Commission

5. Internal rules referred to in paragraphs 1, 3 and 4 shall be sufficiently clear and precise and subject to appropriate publication.

Amendment

deleted

Or. en

Amendment 73

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 25 – paragraph 5

Text proposed by the Commission

5. Internal rules referred to in paragraphs 1, 3 and 4 shall be sufficiently clear and precise and subject to appropriate publication.

Amendment

deleted

Or. en

Amendment 74
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 25 – paragraph 6

Text proposed by the Commission

6. If a restriction is imposed pursuant to **paragraphs 1 or 2**, the data subject shall be informed, in accordance with Union law, of the principal reasons on which the application of the restriction is based and of his or her right to lodge a complaint with the European Data Protection Supervisor.

Amendment

6. If a restriction is imposed pursuant to **paragraph 1**, the data subject shall be informed, in accordance with Union law, of the principal reasons on which the application of the restriction is based and of his or her right to lodge a complaint with the European Data Protection Supervisor.

Or. en

Amendment 75
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 25 – paragraph 7

Text proposed by the Commission

7. If a restriction imposed pursuant to **paragraphs 1 or 2** is relied upon to deny access to the data subject, the European Data Protection Supervisor shall, when investigating the complaint, only inform him or her of whether the data have been processed correctly and, if not, whether any necessary corrections have been made.

Amendment

7. If a restriction imposed pursuant to **paragraph 1** is relied upon to deny access to the data subject, the European Data Protection Supervisor shall, when investigating the complaint, only inform him or her of whether the data have been processed correctly and, if not, whether any necessary corrections have been made.

Or. en

Amendment 76
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 25 – paragraph 8

Text proposed by the Commission

Amendment

8. Provision of the information referred to in paragraphs 6 and 7 and in Article 46(2) may be deferred, omitted or denied if it would cancel the effect of the restriction imposed pursuant to paragraph 1 *or 2*.

8. Provision of the information referred to in paragraphs 6 and 7 and in Article 46(2) may be deferred, omitted or denied if it would cancel the effect of the restriction imposed pursuant to paragraph 1.

Or. en

Amendment 77
Daniel Buda

Proposal for a regulation
Article 31 – paragraph 5

Text proposed by the Commission

(5) Union institutions and bodies *may decide to* keep their records of processing activities in a central register. In this case, they may also *decide to* make the register publicly accessible.

Amendment

(5) Union institutions and bodies *shall* keep their records of processing activities in a central register. For reasons of transparency, they should also make such a register public *so that the individual concerned can consult it without prejudice to the rights of other concerned parties*.

Or. ro

Amendment 78
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 31 – paragraph 5

Text proposed by the Commission

5. Union institutions and bodies *may decide to* keep their records of processing activities in a central register. *In this case, they may also decide to* make the register publicly accessible.

Amendment

5. Union institutions and bodies *shall* keep their records of processing activities in a central register. *They shall* make the register publicly accessible.

Or. en

Amendment 79

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 31 – paragraph 5

Text proposed by the Commission

5. Union institutions and bodies *may decide to* keep their records of processing activities in a central register. *In this case, they may also decide to* make the register publicly accessible.

Amendment

5. Union institutions and bodies *shall* keep their records of processing activities in a central register. *They shall* make the register publicly accessible.

Or. en

Amendment 80

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 31 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Data subjects shall be able to consult the central register referred to in paragraph 5 through the data protection officer of the controller.

Or. en

Amendment 81

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Chapter IV – section 2 – title

Text proposed by the Commission

Amendment

**SECURITY OF PERSONAL DATA AND
CONFIDENTIALITY OF ELECTRONIC
COMMUNICATIONS**

SECURITY OF PERSONAL DATA

Amendment 82

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

Amendment

Union institutions and bodies shall ensure the confidentiality of electronic communications, in particular by securing their electronic communication networks. *deleted*

Or. en

Amendment 83

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

Amendment

Union institutions and bodies shall ensure the confidentiality of electronic communications, *in particular by securing their electronic communication networks.*

Union institutions and bodies shall ensure the confidentiality of electronic communications *in accordance with Regulation (EU) 2017/XXXX.*

Or. en

Justification

The specific legislative proposal concerning the confidentiality of electronic communication will be the Regulation based on Commission proposal COM(2017)0010 and should thus be referred to.

Amendment 84

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

Amendment

Union institutions and bodies shall protect the information related to end-users' terminal equipment accessing their publicly available websites and mobile applications in accordance with Regulation (EU) XX/XXXX [new ePrivacy Regulation], in particular Article 8 thereof.

deleted

Or. en

Amendment 85

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 36

Text proposed by the Commission

Amendment

Article 36

deleted

Directories of users

1. Personal data contained in directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

2. Union institutions and bodies shall take all the necessary measures to prevent personal data contained in those directories, regardless of whether they are accessible to the public or not, from being used for direct marketing purposes.

Or. en

Amendment 86

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 38 a (new)

Text proposed by the Commission

Amendment

Article 38a

Confidentiality of electronic communications

Union institutions and bodies shall ensure the confidentiality of electronic communications, in particular by securing their electronic communication networks.

Or. en

Amendment 87

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 38 b (new)

Text proposed by the Commission

Amendment

Article 38b

Directories of users

- 1. Personal data contained in directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.***
- 2. Union institutions and bodies shall take all the necessary measures to prevent personal data contained in those directories, regardless of whether they are accessible to the public or not, from being used for direct marketing purposes.***

Or. en

Amendment 88

Axel Voss

Proposal for a regulation
Article 42

Text proposed by the Commission

Amendment

Article 42

deleted

Legislative consultation

1. Following the adoption of proposals for a legislative act and of recommendations or proposals to the Council pursuant to Article 218 TFEU and when preparing delegated acts or implementing acts, which have an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission shall consult the European Data Protection Supervisor.

2. Where an act referred to in paragraph 1 is of particular importance for the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission may also consult the European Data Protection Board. In such cases the European Data Protection Supervisor and the European Data Protection Board shall coordinate their work with a view to issue a joint opinion.

3. The advice referred to in paragraphs 1 and 2 shall be provided in writing within a period of up to eight weeks of receipt of the request for consultation referred to in paragraphs 1 and 2. In urgent cases, or otherwise appropriate, the Commission may shorten the deadline.

4. This Article shall not apply where the Commission is required, pursuant to Regulation (EU) 2016/679, to consult the European Data Protection Board.

Or. en

Amendment 89

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 42 – paragraph 1

Text proposed by the Commission

1. *Following the adoption of* proposals for a legislative act and *of* recommendations or proposals to the Council pursuant to Article 218 TFEU and when preparing delegated acts or implementing acts, *which have an impact on* the protection of *individuals'* rights and freedoms with regard to the processing of personal data, the Commission shall consult the European Data Protection Supervisor.

Amendment

1. *When adopting* proposals for a legislative act and recommendations or proposals to the Council pursuant to Article 218 TFEU and when preparing delegated acts or implementing acts *on legislative and administrative measures relating to* the protection of *natural persons'* rights and freedoms with regard to the processing of personal data, the Commission shall consult the European Data Protection Supervisor.

Or. en

Amendment 90

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 42 – paragraph 2

Text proposed by the Commission

2. Where an act referred to in paragraph 1 is of particular importance for the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission *may* also consult the European Data Protection Board. In such cases the European Data Protection Supervisor and the European Data Protection Board shall coordinate their work with a view to issue a joint opinion.

Amendment

2. Where an act referred to in paragraph 1 is of particular importance for the protection of individuals' rights and freedoms with regard to the processing of personal data, the Commission *shall* also consult the European Data Protection Board. In such cases the European Data Protection Supervisor and the European Data Protection Board shall coordinate their work with a view to issue a joint opinion.

Or. en

Amendment 91
Jens Rohde, Jean-Marie Cavada

Proposal for a regulation
Article 44 – paragraph 4

Text proposed by the Commission

4. The data protection officer *may* be a staff member of the Union institution *or* body, *or fulfil the tasks on the basis of a service contract.*

Amendment

4. The data protection officer *shall* be a staff member of the Union institution, body, *office or agency.*

Or. en

Justification

The outsourcing of a data protection officer seems not suitable for a Union institution.

Amendment 92
Jiří Maštálka, Kateřina Konečná

Proposal for a regulation
Article 44 – paragraph 4

Text proposed by the Commission

4. The data protection officer *may* be a staff member of the Union institution or body, or fulfil the tasks on the basis of a service contract.

Amendment

4. The data protection officer *shall* be a staff member of the Union institution or body, or fulfil the tasks on the basis of a service contract.

Or. en

Amendment 93
Daniel Buda

Proposal for a regulation
Article 46 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) ensure that the fundamental rights and freedoms of data subjects are not

adversely affected by processing operations.

Or. ro

Amendment 94

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 46 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) ensure that the rights and freedoms of data subjects are not adversely affected by processing operations.

Or. en

Amendment 95

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 46 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) ensure that the rights and freedoms of data subjects are not adversely affected by the processing.

Or. en

Amendment 96

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 48 – paragraph 1

Text proposed by the Commission

Amendment

1. A transfer of personal data to a third country or international organisation

1. A transfer of personal data to a third country or international organisation

may take place where the Commission has **decided** pursuant to Article 45(3) of Regulation (EU) 2016/679 that an adequate level of protection is ensured in the third country, a territory or one or more specified sectors within that third country, or within the international organisation and the personal data are transferred solely to allow tasks covered by the competence of the controller to be carried out.

may take place where the Commission has **adopted an implementing act** pursuant to Article 45(3) of Regulation (EU) 2016/679 **which stipulates** that an adequate level of protection is ensured in the third country, a territory or one or more specified sectors within that third country, or within the international organisation and the personal data are transferred solely to allow tasks covered by the competence of the controller to be carried out. **The implementing act shall provide for a mechanism for a periodic review, at least every four years, which shall take into account all relevant developments in the third country or the international organisation. The implementing act shall further indicate its territorial and sectorial application and shall identify the supervisory authority. Chapter V of Regulation (EU) 2016/679 shall apply.**

Or. en

Justification

The rules on transfer of personal data to third countries or third country institutions must be coherent with the relevant rules in the General Data Protection Regulation in order not to create any loopholes or legal inconsistencies. Notably, the review mechanism should be emphasised.

Amendment 97

Axel Voss

Proposal for a regulation

Article 49 – paragraph 5

Text proposed by the Commission

5. Authorisations by the European Data Protection Supervisor on the basis of Article 9(7) of Regulation (EC) No 45/2001 shall remain valid until amended, replaced or repealed, ***if necessary, by the European Data Protection Supervisor.***

Amendment

5. Authorisations by the European Data Protection Supervisor on the basis of Article 9(7) of Regulation (EC) No 45/2001 shall remain valid until amended, replaced or repealed.

Amendment 98**Jens Rohde, Jean-Marie Cavada****Proposal for a regulation****Article 54 – paragraph 1***Text proposed by the Commission*

1. The European Parliament and the Council shall appoint the European Data Protection Supervisor by common accord for a term of five years, on the basis of a list drawn up by the Commission following a public call for candidates. The call for candidates shall enable all interested parties throughout the Union to submit their applications. The list of candidates ***drawn up by the Commission*** shall be public. ***On the basis of the list drawn up by the Commission***, the competent committee of the European Parliament may decide to hold a hearing in order to enable it to express a preference.

Amendment

1. The European Parliament and the Council shall appoint the European Data Protection Supervisor by common accord for a term of five years, on the basis of a list drawn up ***jointly*** by the ***European Parliament, the Council and the Commission*** following a public call for candidates. The call for candidates shall enable all interested parties throughout the Union to submit their applications. The list of candidates shall be public ***and shall consist of at least five candidates***. The competent committee of the European Parliament may decide to hold a hearing ***of the listed candidates*** in order to enable it to express a preference.

Amendment 99**Jiří Maštálka, Kateřina Konečná****Proposal for a regulation****Article 54 – paragraph 1***Text proposed by the Commission*

1. The European Parliament and the Council shall appoint the European Data Protection Supervisor by common accord for a term of five years, on the basis of a list drawn up by the Commission following a public call for candidates. The call for candidates shall enable all interested parties throughout the Union to submit

Amendment

1. The European Parliament and the Council shall appoint the European Data Protection Supervisor by common accord for a term of five years, on the basis of a list drawn up ***jointly*** by the ***European Parliament, the Council and the Commission*** following a public call for candidates. The call for candidates shall

their applications. The list of candidates *drawn up by the Commission* shall be public. *On the basis of the list drawn up by the Commission*, the competent committee of the European Parliament may decide to hold a hearing in order to enable it to express a preference.

enable all interested parties throughout the Union to submit their applications. The list of candidates shall be public *and shall consist of at least five candidates*. The competent committee of the European Parliament may decide to hold a hearing *of the listed candidates* in order to enable it to express a preference.

Or. en

Amendment 100

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 54 – paragraph 2

Text proposed by the Commission

2. The list drawn up by the Commission from which the European Data Protection Supervisor shall be chosen shall be made up of persons whose independence is beyond doubt and who are acknowledged as having the experience and skills required to perform the duties of European Data Protection Supervisor, for example because they belong or have belonged to the supervisory authorities established under Article 41 of Regulation (EU) 2016/679.

Amendment

2. The list drawn up *jointly* by the *European Parliament, the Council and the Commission* from which the European Data Protection Supervisor shall be chosen shall be made up of persons whose independence is beyond doubt and who are acknowledged as having *expert knowledge in data protection as well as* the experience and skills required to perform the duties of European Data Protection Supervisor, for example because they belong or have belonged to the supervisory authorities established under Article 41 of Regulation (EU) 2016/679.

Or. en

Amendment 101

Axel Voss

Proposal for a regulation

Article 59 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to obtain, from the controller and the processor, access to all personal data and *to all* information necessary for the performance of its tasks;

(d) to obtain, from the controller and the processor, access to all personal *administrative* data and information necessary for the performance of its tasks, *with the exception of operational personal data*;

Or. en

Amendment 102

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Article 63 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In cases where the data subject is a child, Member States shall provide for specific safeguards, in particular with regard to legal aid.

Or. en

Justification

Children may be more vulnerable than adults and specific safeguard clauses, notably as regards legal aid protection should be foreseen in Member States to guarantee children's rights.

Amendment 103

Jens Rohde, Jean-Marie Cavada

Proposal for a regulation

Chapter IX a (new)

Text proposed by the Commission

Amendment

Chapter IXa

Article 70a

Review Clause

1. No later than 1 June 2021, and every five years thereafter, the

Commission shall present to the European Parliament a report on the application of this Regulation, accompanied, if necessary, by appropriate legislative proposals.

2. The ex-post evaluation outlined in paragraph 1 shall pay particular attention to the appropriateness of the scope of this Regulation, the consistency with other legislative acts in the field of data protection and assess, in particular, the implementation of Chapter V of this Regulation.

3. No later than 1 June 2021, and every five years thereafter, the Commission shall report to the European Parliament on the application of Chapter VIII of this Regulation and the penalties and sanctions applied.

Or. en

Justification

In the light of better law-making and in particular the effective use of ex-post evaluations to capture the whole legislative cycle, it is of particular interest to follow the transposition, implementation and enforcement of EU law, and more generally, to monitor the impact, operation and effectiveness of its law. A comprehensive review clause, requesting an appropriate evaluation on the application of the Regulation, its scope and the foreseen derogation of powers as well as constituting proportionate reporting obligations serves this purpose.

Amendment 104

Jiří Maštálka, Kateřina Konečná

Proposal for a regulation

Article 72 a (new)

Text proposed by the Commission

Amendment

Article 72a

Review of Union legal acts

By 25 May 2021, the Commission shall review other legal acts adopted on the basis of the Treaties which regulate

processing of personal data, in particular by agencies established under Chapters 4 and 5 of Title V of Part Three TFEU, in order to assess the need to align them with this Regulation and to make, where appropriate, the necessary proposals to amend those acts in order to ensure a consistent approach to the protection of personal data within the scope of this Regulation.

Or. en