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*Committee on Legal Affairs*

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**2011/2025(INI)**

3.5.2011

# **AMENDMENTS**

## **1 - 44**

**Draft opinion**  
**Françoise Castex**  
(PE462.780v01-00)

A comprehensive approach on personal data protection in the European Union  
(2011/2025(INI))

AM\_Com\_NonLegOpinion

**Amendment 1**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph -1 (new)**

*Draft opinion*

*Amendment*

***-1. Considers that due to the rapid technological developments in the global information society the adaptation of the underlying data protection rules is indispensable; stresses that only by way of choosing a comprehensive and coherent approach within the European Union created by means of one single legal instrument can the current protection shortcomings be addressed extensively;***

Or. en

**Amendment 2**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

*Amendment*

***1. Believes that, following the entry into force of the Lisbon Treaty, Article 16 of the Treaty on the Functioning of the European Union provides a sound legal basis for any new legal instrument on data protection; stresses at the same time that such a legal instrument must fully comply with Article 8 of the Charter of Fundamental Rights of the European Union;***

***1. Notes that Article 16 TFEU constitutes a new legal basis allowing the adoption of a single legal instrument making for the fullest possible harmonisation of personal data protection and for greater legal certainty for citizens, industry, and public authorities;***

Or. fr

**Amendment 3**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

1. **Believes** that, following the entry into force of the Lisbon Treaty, Article 16 of the Treaty on the Functioning of the European Union provides a **sound** legal basis for **any new legal instrument on data protection**; **stresses at the same time that such a legal instrument must fully comply with** Article 8 of the Charter of Fundamental Rights of the European Union;

*Amendment*

1. **Stresses** that, following the entry into force of the Lisbon Treaty **and the Charter of Fundamental Rights becoming legally binding**, Article 16 of the Treaty on the Functioning of the European Union provides a **specific** legal basis for **the protection of personal data**; **whereby** Article 8 of the Charter of Fundamental Rights of the European Union **must be fully complied with**;

Or. en

**Amendment 4**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 1 a (new)**

*Draft opinion*

1. **Notes that** the new legal instrument **must also produce a harmonised interpretation of the definitions and clarify the rules on applicable law**;

*Amendment*

1a. **Notes that** the new legal instrument **must also produce a harmonised interpretation of the definitions and clarify the rules on applicable law**;

Or. fr

**Amendment 5**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 2**

*Draft opinion*

2. Considers **that the current legislative**

*Amendment*

2. Considers that the increasing complexity

*framework has ensured a high level of protection of personal data and that the entry into force of the Lisbon Treaty, the increasing complexity of data protection issues and the current lack of harmonisation between Member States' national laws all call for the adoption of a comprehensive instrument at European level;*

of data protection issues and the current lack of harmonisation between Member States' national laws *calls* for the adoption of a comprehensive instrument at European level;

Or. en

**Amendment 6**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 2**

*Draft opinion*

2. Considers that the current legislative framework has ensured a high level of protection of personal data and that *the entry into force of the Lisbon Treaty, the increasing complexity of data protection issues* and the current lack of harmonisation between Member States' national laws all call for the adoption of a comprehensive instrument at European level;

*Amendment*

2. Considers that the current legislative framework has ensured a high level of protection of personal data and that *technological developments, globalisation,* and the current lack of harmonisation between Member States' national laws all call for the adoption of a comprehensive instrument at European level;

Or. fr

**Amendment 7**  
**Sajjad Karim**

**Draft opinion**  
**Paragraph 2**

*Draft opinion*

2. Considers that the current legislative framework has ensured a high level of protection of personal data and that the

*Amendment*

2. Considers that the current legislative framework has ensured a high level of protection of personal data and that the

entry into force of the Lisbon Treaty, the increasing complexity of data protection issues and the current lack of harmonisation between Member States' national laws all call for the adoption of **a comprehensive *instrument at European level***;

entry into force of the Lisbon Treaty, the increasing complexity of data protection issues and the current lack of harmonisation between Member States' national laws all call for the adoption of comprehensive ***and effective common standards***;

Or. en

**Amendment 8**  
**Jan Philipp Albrecht**

**Draft opinion**  
**Paragraph 3 a (new)**

*Draft opinion*

*Amendment*

***3a. Underlines that the right to access includes not only full access to the data processes about oneself including the source and recipients, but also intelligible information about the logic involved in any automatic processing; emphasises that the latter will even become more important with profiling and data-mining;***

Or. en

**Amendment 9**  
**Jan Philipp Albrecht**

**Draft opinion**  
**Paragraph 3 b (new)**

*Draft opinion*

*Amendment*

***3b. Calls on the Commission to guarantee synergies on data protection rights and consumers' rights;***

Or. en

**Amendment 10**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 3 a (new)**

*Draft opinion*

*Amendment*

***3a. Points to the need to provide for specific forms of protection for vulnerable persons, especially children, for instance by requiring a high level of data protection to be used as the default setting and by taking appropriate specific measures to protect their personal data;***

Or. fr

**Amendment 11**  
**Sajjad Karim**

**Draft opinion**  
**Paragraph 3 a (new)**

*Draft opinion*

*Amendment*

***3a. Cautions, however, that data protection rules should not be prejudicial to the protection and enjoyment of other fundamental rights;***

Or. en

**Amendment 12**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

*Amendment*

***4. Calls on the Commission to respect the competence of national authorities where a practice or complaint has a substantial impact on the territory of the Member***

***deleted***

*State concerned;*

Or. en

**Amendment 13**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

*Amendment*

**4. Calls on the Commission to respect the competence of national authorities where a practice or complaint has a substantial impact on the territory of the Member State concerned;** *deleted*

Or. fr

**Amendment 14**  
**Jan Philipp Albrecht**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

*Amendment*

**4. Calls on the Commission to respect the competence of national authorities where a practice or complaint has a substantial impact on the territory of the Member State concerned;** *deleted*

Or. en

**Amendment 15**  
**Zbigniew Ziobro**

**Draft opinion**  
**Paragraph 4**



*Draft opinion*

4. Calls on the Commission to respect the competence of national authorities *where a practice or complaint has a substantial impact on the territory* of the Member State concerned;

*Amendment*

4. Calls on the Commission to respect the competence of national authorities *in accordance with the principle of subsidiarity, given that the Member States are in the best position to protect personal data*;

Or. en

**Amendment 16**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

*5. Is concerned about the risk of ‘forum shopping’, which would have social, economic and political effects on the internal market and would negatively impact the level of protection of data subjects; stresses that the temptation to settle in the least protective Member State in order to bypass stronger protection has to be avoided;*

*Amendment*

*deleted*

Or. en

**Amendment 17**  
**Zbigniew Ziobro**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

*5. Is concerned about the risk of ‘forum shopping’, which would have social, economic and political effects on the internal market and would negatively*

*Amendment*

*deleted*

*impact the level of protection of data subjects; stresses that the temptation to settle in the least protective Member State in order to bypass stronger protection has to be avoided;*

Or. en

**Amendment 18**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

*5a. Maintains that transparency should be established as the general principle governing the processing of personal data, as this would make it easier for individual data subjects to check their own data;*

Or. fr

**Amendment 19**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 6**

*Draft opinion*

*Amendment*

6. Strongly supports the Commission's communication when it comes to informed consent and asks it to clarify and strengthen the relevant rules;

6. Strongly supports the Commission's communication when it comes to informed consent *as a basic principle* and asks it to clarify and strengthen the relevant rules;

Or. en

**Amendment 20**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 6 a (new)**

*Draft opinion*

*Amendment*

***6a. Is concerned about the abuses stemming from online behavioural targeting and points out that under the directive on privacy and electronic communications, the prior explicit consent of the person concerned is required for the display of cookies and for further monitoring of his or her web-browsing behaviour for the purpose of delivering personalised advertisements;***

Or. fr

**Amendment 21**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 6 a (new)**

*Draft opinion*

*Amendment*

***6a. Welcomes the Commission's decision to consider how a personal data breach notification requirement might be established on a general basis, bearing in mind that such a requirement at present applies to the telecommunications sector only;***

Or. fr

**Amendment 22**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 6 b (new)**

*Draft opinion*

*Amendment*

***6b. Calls on the Commission to propose specific measures for children, who are not always aware of the risks involved in the use of the Internet;***

Or. fr

**Amendment 23**

**Marielle Gallo**

**Draft opinion**

**Paragraph 6 c (new)**

*Draft opinion*

*Amendment*

***6c. Believes that national data protection authorities should conduct awareness-raising campaigns targeting minors in particular;***

Or. fr

**Amendment 24**

**Marielle Gallo**

**Draft opinion**

**Paragraph 6 d (new)**

*Draft opinion*

*Amendment*

***6d. Points out that revision of the European rules must not entail excessive costs for European firms, as this would adversely affect their competitiveness in relation to rivals from non-EU countries;***

Or. fr

**Amendment 25**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 6 e (new)**

*Draft opinion*

*Amendment*

***6e. Considers that self-regulation, for instance through codes of conduct, should be encouraged;***

Or. fr

**Amendment 26**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 6 f (new)**

*Draft opinion*

*Amendment*

***6f. Applauds the Commission's view that other relevant fundamental rights enshrined in the Charter of Fundamental Rights and other aims set out in the Treaties must be taken into account for the purposes of enforcing the right to protection of personal data;***

Or. fr

**Amendment 27**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 6 g (new)**

*Draft opinion*

*Amendment*

***6g. Points out that protection of personal data applies to every person, but the enforcement of this right must not serve to protect criminal activities or offenders; notes that Article 47 of the European***

*Charter of Fundamental Rights provides for the right to an effective remedy in the event of violation of rights and freedoms guaranteed by EU law;*

Or. fr

**Amendment 28**  
**Jan Philipp Albrecht**

**Draft opinion**  
**Paragraph 6 a (new)**

*Draft opinion*

*Amendment*

*6a. Supports efforts further to advance enforceable and binding self-regulatory initiatives based on the legal framework within the revision on the data protection framework, as suggested in the Commission communication, and is in favour of further supporting EU certification schemes; points out that public procurement should play an important role in taking the lead here;*

Or. en

**Amendment 29**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 7 a (new)**

*Draft opinion*

*Amendment*

*7a. Calls on the Commission to continue the dialogue with non-EU countries with a view to establishing a coherent international legal framework, given that cloud computing and other technological developments enable controllers to operate in more than one country;*

**Amendment 30**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 8**

*Draft opinion*

8. Calls on *all stakeholders to reaffirm and strengthen the place and role of the Article 29 Working Party in order to ensure its impartiality and the transparency of its activities.*

*Amendment*

8. Calls on *the Commission to propose a legal framework making for coherence in the exercise of the powers and responsibilities of the EDPS, national data protection authorities, and the Article 29 Working Party.*

**Amendment 31**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 8**

*Draft opinion*

8. Calls on all stakeholders to reaffirm and strengthen the *place and* role of the Article 29 Working Party in order to ensure its impartiality and the transparency of its activities.

*Amendment*

8. Calls on all stakeholders to reaffirm and strengthen the role of the Article 29 Working Party in order to ensure its impartiality and the transparency of its activities; *at the same time asks the Commission to encircle the different competences of national authorities, the EDPS and the Art. 29 Working Party.*

**Amendment 32**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 8 a (new)**

*Draft opinion*

*Amendment*

***8a. Calls on the Commission to clarify the role of the Article 29 Working Party, not least as regards the fullest possible harmonisation of the rules on personal data protection.***

Or. fr

**Amendment 33  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 a (new)**

*Draft opinion*

*Amendment*

***8a. Calls on the Commission to ensure that the directive provides clear and harmonised definitions.***

Or. en

**Amendment 34  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 b (new)**

*Draft opinion*

*Amendment*

***8b. Calls on the Commission to provide for a high level of transparency when it comes to processing of personal data in the legal framework.***

Or. en

**Amendment 35  
Cecilia Wikström**



**Draft opinion  
Paragraph 8 c (new)**

*Draft opinion*

*Amendment*

***8c. Calls on the Commission to establish a personal data breach notification system as introduced by the ePrivacy Directive regarding the telecommunications sector.***

Or. en

**Amendment 36  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 d (new)**

*Draft opinion*

*Amendment*

***8d. Calls on the Commission to ensure the principles of data minimisation and purpose limitation.***

Or. en

**Amendment 37  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 e (new)**

*Draft opinion*

*Amendment*

***8e. Stresses the importance of the right of access, rectification and deletion.***

Or. en

**Amendment 38  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 f (new)**

*Draft opinion*

*Amendment*

***8f. Calls on the Commission to provide for a special restrictive regime for ‘sensitive data’ whereby a clear definition of this category of data is needed.***

Or. en

**Amendment 39  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 g (new)**

*Draft opinion*

*Amendment*

***8g. Calls on the Commission to strengthen the concept of ‘binding corporate rules’ in the field of international data transfer.***

Or. en

**Amendment 40  
Cecilia Wikström**

**Draft opinion  
Paragraph 8 h (new)**

*Draft opinion*

*Amendment*

***8h. Calls on the Commission to ensure that the exceptions accorded for journalistic purposes in Article 9 of the current Data Protection Directive will be maintained and that all efforts will be taken to evaluate the need for developing these exceptions further in the light of any new provisions in order to protect the freedom of the press.***

**Amendment 41**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 8 a (new)**

*Draft opinion*

*Amendment*

***8a. Considers that advertising space agencies are responsible for data processing to the extent that they determine the purposes of, and the principal means to be employed for, such processing.***

Or. fr

**Amendment 42**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 8 b (new)**

*Draft opinion*

*Amendment*

***8b. Considers that publishers must also, to some extent, assume the responsibilities of controllers, if, when configuring their websites, they cause users' IP addresses to be transferred to advertising network providers.***

Or. fr

**Amendment 43**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 8 c (new)**

*Draft opinion*

*Amendment*

***8c. Insists that advertising space agencies clearly inform Internet surfers in advance about any data collection relating to their behaviour and about the information gathered, profiling, and the delivery of targeted advertisements.***

Or. fr

**Amendment 44**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 8 d (new)**

*Draft opinion*

*Amendment*

***8d. Calls on the online advertising industry swiftly to develop user-friendly tools for Internet surfers so as to give effect to the principles underlying the protection of privacy.***

Or. fr