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Committee on Industry, Research and Energy

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AMENDMENTS

357 - 689

Draft opinion
Seán Kelly
(PE496.562v01-00)

on the proposal for a regulation of the European Parliament and of the Council
on the protection of individuals with regard to the processing of personal data
and on the free movement of such data

Proposal for a regulation
(COM(2012)0011 – C7-0025/2012 – 2012/0011(COD))

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United in diversity

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Amendment 357
Jens Rohde

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) collected for specified, explicit and legitimate purposes and not further processed in a way *incompatible* with those purposes;

Amendment

(b) collected for specified, explicit and legitimate purposes and not further processed in a way *irreconcilable* with those purposes;

Or. en

Amendment 358
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) adequate, relevant, and *limited to the minimum necessary* in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;

Amendment

(c) adequate, relevant, and *proportionate* in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;

Or. en

Amendment 359
Jean-Pierre Audy

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) adequate, relevant, and *limited to the*

Amendment

(c) adequate, relevant, and *not excessive* in

minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;

relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;

Or. fr

Amendment 360

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 5 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 361

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific *research* purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to

Amendment

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the

assess the necessity to continue the storage;

necessity to continue the storage;

Or. en

Amendment 362

Alejo Vidal-Quadras

Proposal for a regulation

Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) processed under the responsibility and liability of the controller, who shall ensure and ***demonstrate for each processing operation the compliance*** with the provisions of this Regulation.

Amendment

(f) processed under the responsibility and liability of the controller, who shall ensure and, ***if required to do so, demonstrate compliance of the controller's processing with the provisions of this Regulation to the supervisory authority having competence under paragraph 2 of Article 51.***

Or. en

Amendment 363

Jean-Pierre Audy

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) the data subject has given consent to the processing of their personal data ***for one or more specific purposes***;

Amendment

(a) the data subject has given consent to the processing of their personal data;

Or. fr

Amendment 364

Silvia-Adriana Țicău

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the data subject has given consent to the processing of their personal data for one or more specific purposes;

(a) the data subject has given ***explicit and informed*** consent to the processing of their personal data for one or more specific purposes;

Or. en

Justification

The consent given should be explicit and informed.

Amendment 365
Angelika Niebler

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(b) processing is necessary for the performance of a contract ***or of collective agreements and company-level agreements***, to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.

Or. de

Justification

Collective agreements in Germany are equivalent to state law contracts and can thus also be the basis for legitimate data processing.

Amendment 366
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(c) processing is necessary for compliance with a legal obligation, **regulatory rule, guidance, industry code of practice, either domestically or internationally** to which the controller is subject **including the requirements of supervisory authorities**;

Or. en

Justification

The provision should ensure that domestic financial regulation or codes of conduct are included.

Amendment 367

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) processing of data necessary to ensure network and information security;

Or. en

Justification

This amendment incorporates into the text the safeguards established in Recital 39 by clarifying in a legally binding article that processing of data for network and information security purposes is considered lawful processing.

Amendment 368

Bernd Lange

Proposal for a regulation

Article 6 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) 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;

(e) processing is necessary for the performance of a task carried out in the exercise of official authority vested in the controller; **or in the public interest,**

Or. en

Amendment 369

Amelia Andersdotter

Proposal for a regulation

Article 6 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

deleted

Or. en

Justification

As drafted, this provision could offer controllers a way to avoid many restrictions, since experience suggests that few data subjects will test reliance on this ground in court. Moreover, the broadness of the term creates legal uncertainty. This is also likely to lead to divergences in practice between Member States and therefore fail to achieve harmonisation. Points (a) to (e) already offer ample grounds for lawfulness, so "legitimate interest" should be removed as a ground for processing. The vagueness of the term "legitimate interests" would encourage controllers to try to cover as much processing as possible under this ground, even though it could be covered under other grounds, notably consent, as well. This in turn would make it harder for data subjects to enforce their rights – while consent can easily be revoked, objecting to processing based on "legitimate interest" requires more effort on part of the data subject. Having such an ill-defined term be one of the grounds for lawfulness could also

contribute to legal uncertainty, as it is quite likely that interpretations by supervisory authorities and courts will differ between Member States.

Amendment 370

Amelia Andersdotter, Adina-Ioana Vălean

Proposal for a regulation

Article 6 – paragraph 1 – point f

Text proposed by the Commission

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Amendment

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller ***in adequacy with points (a) to (e) of the same paragraph***, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. en

Amendment 371

Alejo Vidal-Quadras

Proposal for a regulation

Article 6 – paragraph 1 – point f

Text proposed by the Commission

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Amendment

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks ***or enterprises in***

the exercise of their legal obligations, and in order to safeguard against fraudulent behaviour.

Or. en

Amendment 372

Seán Kelly, Adina-Ioana Vălean, Angelika Niebler

Proposal for a regulation

Article 6 – paragraph 1 – point f

Text proposed by the Commission

(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Amendment

(f) processing is necessary for the purposes of the legitimate interests pursued by, ***or on behalf of***, a controller ***or a processor***, ***including for the security of processing***, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. en

Justification

A specific reference to the provisions on the security of data processing (Articles 30 and following) clarifies that the processing of data to the extent strictly necessary for the purposes of ensuring network and information security by, or on behalf of, a data controller, or data processor constitutes a legitimate interest of the concerned data controller or of the processor. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping 'denial of service' attacks and damage to computer and electronic communication systems.

Amendment 373

Bernd Lange

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) The processing of the name, address, occupation, branch, contact details including the telephone number and the address of electronic mail shall always be lawful. This shall not apply, however, if such data is purposefully collected, stored and - if applicable together with other data - evaluated and such data then can provide a comprehensive personality and movement profile of the data subject, or if such data describes or portrays the data subject in a defamatory manor.

Or. en

Amendment 374
Seán Kelly, Pilar del Castillo Vera, Angelika Niebler

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) processing is limited to pseudonymised data and the recipient of the service is given a right to object pursuant to Art. 19 (3) (new).

Or. en

Amendment 375
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the data are collected from public

registers, lists or documents accessible by everyone;

Or. en

Amendment 376
Angelika Niebler

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) processing is necessary in order to anonymise or pseudonymise personal data;

Or. de

Justification

Processing must be allowed so that personal data can be anonymised or pseudonymised.

Amendment 377
Alejo Vidal-Quadras

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) only pseudonymous data is processed, where the data subject is adequately protected

Or. en

Amendment 378
Jean-Pierre Audy

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) where the controller entrusts personal data to a third party, the third party concerned shall become jointly responsible for compliance with this Regulation;

Or. fr

Amendment 379
Ivailo Kalfin

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) processing is strictly necessary for the proper response to detected network and/or information security incidents, breaches or attacks;

Or. en

Amendment 380
Jens Rohde

Proposal for a regulation
Article 6 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) only anonymised or pseudonymous data is processed.

Or. en

Justification

Making the processing of personal data lawful when that data has been rendered pseudonymous will encourage data minimisation and the practice of “pseudonymising” data to the benefit of all data subjects since, by definition, the data cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls.

Amendment 381

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 6 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) processing is conducted for the purpose of anonymisation.

Or. en

Amendment 382

Silvia-Adriana Țicău

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Processing of personal data for direct marketing for commercial purposes shall be lawful only if the data subject has given prior consent to the processing of their personal data for such marketing.

Or. en

Justification

The e-privacy Directive requires consent for direct marketing and online behavioural advertising. Therefore, the regulation has to provide the same level of standards for online and offline direct marketing.

Amendment 383
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.

Amendment

2. **Subsequent** processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.

Or. en

Justification

It is important to specify and allow for subsequent processing (e.g. linkage, correction and addition of data concerning a data subject) since modern and innovative public health research will be build on multiple data sets and historical series.

Amendment 384
Angelika Niebler

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Processing of pseudonymised data to safeguard the legitimate interests pursued by a controller shall be lawful, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. de

Justification

The regulation does not yet currently recognise different categories of data and their different treatment.

Amendment 385 **Jens Rohde, Bendt Bendtsen**

Proposal for a regulation **Article 6 – paragraph 3 – subparagraph 2**

Text proposed by the Commission

The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.

Amendment

The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others. ***The law of the Member State must also*** respect the essence of the right to the protection of personal data ***this regulation and international treaties that the Member State has decided to follow. Finally the Member State is obliged to evaluate and decide if national legislation is*** and be proportionate to the legitimate aim pursued ***or if a legitimate aim could be achieved using less privacy invasive solutions.***

Or. en

Justification

Article 6, paragraph 1, indent e states that processing is lawful if the following applies: “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”. Seen in connection with the above mentioned paragraph 3 this leaves Member States a very wide room for eroding citizens’ protection of data mentioned in this regulation using national legislation. The harmonisation among Member States will come under pressure because national interests will result in many different examples of legislation. Citizens’ data will be processed differently in the different countries. This is not satisfying. Similar arguments can be found in relation to article 21.

Amendment 386 **Amelia Andersdotter**

Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In the case referred to in point (f) of paragraph 1, the controller shall inform the data subject about this explicitly and separately. The controller shall also publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject.

Or. en

Amendment 387
Amelia Andersdotter, Silvia-Adriana Țicău

Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.

deleted

Or. en

Amendment 388
Silvia-Adriana Țicău

Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract. *deleted*

Or. en

Justification

Personal data must be collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes.

Amendment 389

Amelia Andersdotter, Silvia-Adriana Țicău

Proposal for a regulation

Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child. *deleted*

Or. en

Justification

Delegated acts should be tolerated only if their scope touches non-essential elements of the legislative act. The definition and scope of the lawfulness of the present regulation are essential elements of the same, and therefore should not be subject to delegated acts.

Amendment 390
Jean-Pierre Audy

Proposal for a regulation
Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.

deleted

Or. fr

Amendment 391
Silvia-Adriana Țicău

Proposal for a regulation
Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.

5. The EDPB should set up a list of criteria to be met for the legitimate interest to be a valid legal ground for processing according to point (f) of paragraph 1, including examples of cases where this ground can be used.

Or. en

Justification

This task should be given to EDPB.

Amendment 392
Amelia Andersdotter

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data *for specified purposes*.

Amendment

1. The controller shall ***in all cases*** bear the burden of proof for the data subject's ***purpose-specific, informed and explicit*** consent to the processing of their personal data.

Or. en

Amendment 393
Bernd Lange

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data for specified purposes.

Amendment

1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data for ***the*** specified purposes ***within the meaning of point (a) of Article 1(1). The declaration of consent does not require a special form.***

Or. en

Amendment 394
Amelia Andersdotter, Silvia-Adriana Țicău

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The freely given specific, informed and explicit consent of the data subject for

the processing of his/her personal data cannot be differentiated or categorised according to the type of the personal data in question.

Or. en

Amendment 395

Paul Rübzig

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Unless another form of consent is determined to be proportionate by such an impact assessment, consent shall be captured in a specific, informed and explicit statement or other clear affirmative action.

Or. de

Amendment 396

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.

deleted

Or. en

Amendment 397
Giles Chichester

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

Amendment

3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. ***Where the processing of personal data is an essential element to the controllers' ability to provide adequate security in the provision of a service to the data subject, the withdrawal of consent can lead to the termination of the service.***

Or. en

Justification

When a withdrawal of consent compromises the ability of a service provider to adequately safeguard the personal data of the data subject, the service provider should not be obliged to provide the aforementioned service. For example, a bank should not be obliged to continue to offer a credit card if the data subject has withdrawn their consent to allow the processing of their personal data in order to prevent fraudulent activity.

Amendment 398
Amelia Andersdotter

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

Amendment

3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. ***The withdrawal of consent terminates the relationship with the controller.***

Amendment 399

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller. **deleted**

Amendment 400

Bernd Lange

Proposal for a regulation

Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.

4. Consent *of an employee* shall not provide a legal basis for the processing of data by the employer. The lawfulness of the processing shall be assessed in accordance with points (a) through (f) of Article 6(1) and paragraphs 2 through 5. The individual consent according to point (a) of Article 6(1) can be replaced by collective agreements as legal basis, in particular by collective bargaining agreements or works council agreements.

Amendment 401

Paul Rübzig

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. Consent shall not provide a legal basis for the processing, **where there is a significant imbalance between the position of the data subject and the controller.**

Amendment

4. Consent shall not provide a legal basis for the processing **when it has not been given freely.**

Or. de

Justification

Größenunterschiede bzw. ein Ungleichgewicht haben nicht per se und automatisch Einfluss auf die Freiwilligkeit einer Einwilligung und sollen daher nicht ausschlaggebend für die Definition der Freiwilligkeit sein. Das bloße Abstellen auf ein Ungleichgewicht birgt die Gefahr von Unsicherheiten im Rechtsverkehr, welche es zu vermeiden gilt. Es soll daher genügen, auf die Freiwilligkeit einer Einwilligung abzustellen; die Regelung bietet ausreichend Flexibilität, um im Rahmen eine Einzelfallbeurteilung unterschiedliche Sachverhalte adäquat zu berücksichtigen und zu beurteilen.

Amendment 402
Amelia Andersdotter

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. For the purposes of this Regulation, in relation to the offering of **information society** services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Amendment

1. For the purposes of this Regulation, in relation to the offering of services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Or. en

Amendment 403
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. For the purposes of this Regulation, in relation to the offering of information society services directly to a child, the processing of personal data of a **child** below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Amendment

1. For the purposes of this Regulation, in relation to the offering of information society services directly to a child, the processing of personal data of a **data subject** below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Or. en

Amendment 404
Jean-Pierre Audy

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. For the purposes of this Regulation, in relation to the offering of information society services directly to a child, the processing of personal data of a child below the age of **13** years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Amendment

1. For the purposes of this Regulation, in relation to the offering of information society services directly to a child, the processing of personal data of a child below the age of **15** years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology.

Or. fr

Amendment 405
Marian Harkin, Seán Kelly

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where an information society service makes social networking facilities available to children it shall take explicit measures to protect their welfare, including by ensuring, in so far as possible, that they are aware of the identities of those with whom they are communicating.

Or. en

Amendment 406
Amelia Andersdotter, Silvia-Adriana Țicău, Adina-Ioana Vălean

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the methods to obtain verifiable consent referred to in paragraph 1. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises. ***deleted***

Or. en

Justification

Obligations are already clear, SME exemptions cannot be delegated to the Commission.

Amendment 407
Rachida Dati

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the methods to obtain verifiable consent referred to in paragraph 1. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the methods to obtain verifiable consent referred to in paragraph 1. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises, ***in consultation with relevant stakeholders.***

Or. fr

Justification

The potential lack of transparency associated with delegated acts should be avoided by ensuring that they are drafted in close cooperation with the stakeholders affected.

Amendment 408
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

4. The Commission may lay down standard forms for specific methods to obtain verifiable consent referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

deleted

Or. en

Amendment 409
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited.

Amendment

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or ***philosophical*** beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions, ***criminal offences and matters which have not led to a conviction***, or related security measures shall be prohibited.

Or. en

Amendment 410
Jens Rohde, Bendt Bendtsen

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited.

Amendment

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, ***significant social problems, private information*** and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited.

Or. en

Justification

In Denmark the special categories of data that are demanded to be protected the most are

more extensive than the regulation proposes. The result is that the regulation actually makes Danish citizens worse off than the current legislation. For this reason it's suggested to expand the special categories to also include "significant social problems, and private information".

Amendment 411
Silvia-Adriana Țicău

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited.

Amendment

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions, ***including offences and matters which have not lead to conviction***, or related security measures shall be prohibited.

Or. en

Amendment 412
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 2 – point a

Text proposed by the Commission

(a) the data subject has given consent to the processing of those personal data, subject to the conditions laid down in Articles 7 and 8, ***except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject***, or

Amendment

(a) the data subject has given consent to the processing of those personal data, subject to the conditions laid down in Articles 7 and 8; or

Or. en

Amendment 413
Jens Rohde

Proposal for a regulation
Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law *or* Member State law providing for adequate safeguards; or

Amendment

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law, Member State law *or collective agreements on the labour market* providing for adequate safeguards; or

Or. en

Justification

Collective agreements should still be considered adequate for processing of personal data

Amendment 414
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law providing for adequate safeguards; or

Amendment

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law providing for adequate safeguards *for the fundamental rights and the interests of the data subject*; or

Or. en

Amendment 415
Jens Rohde, Bendt Bendtsen

Proposal for a regulation
Article 9 – paragraph 2 – point d

Text proposed by the Commission

(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or

Amendment

(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association, ***organizations on the labour market*** or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or

Or. en

Justification

It is important that organisations on the labour market can continue to process and exchange personal information about their members.

Amendment 416
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 2 – point g

Text proposed by the Commission

(g) processing is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's legitimate interests; or

Amendment

(g) processing is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's ***fundamental rights and*** legitimate interests; or

Amendment 417
Jens Rohde

Proposal for a regulation
Article 9 – paragraph 2 – point g

Text proposed by the Commission

(g) processing is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's legitimate interests; or

Amendment

(g) processing **and sharing** is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's legitimate interests; or

Or. en

Amendment 418
Jens Rohde

Proposal for a regulation
Article 9 – paragraph 2 – point h

Text proposed by the Commission

(h) processing of data concerning health is necessary for health purposes and subject to the conditions and safeguards referred to in Article 81; or

Amendment

(h) processing **and sharing** of data concerning health is necessary for health purposes and subject to the conditions and safeguards referred to in Article 81; or

Or. en

Amendment 419
Jens Rohde

Proposal for a regulation
Article 9 – paragraph 2 – point i

Text proposed by the Commission

(i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83; or

Amendment

(i) processing **and sharing** is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83; or

Or. en

Amendment 420

Silvia-Adriana Țicău

Proposal for a regulation

Article 9 – paragraph 2 – point j

Text proposed by the Commission

(j) processing of data relating to criminal convictions or related security measures is carried out *either* under the control of official authority *or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards*. A complete register of criminal convictions shall be kept only under the control of official authority.

Amendment

(j) processing of data relating to criminal convictions or related security measures is carried out under the control of official authority. A complete register of criminal convictions shall be kept only under the control of official authority.

Or. en

Amendment 421

Jens Rohde

Proposal for a regulation

Article 9 – paragraph 2 – point j

Text proposed by the Commission

(j) processing of data relating to criminal

Amendment

(j) processing of data relating to criminal

convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official authority.

convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation **or collective agreements on the labour market** to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official authority.

Or. en

Justification

It must be ensured that employers following collective agreements can receive information on (potential) employees' criminal convictions. This is especially the case for employees dealing with children.

Amendment 422
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 2 – point j

Text proposed by the Commission

(j) processing of data relating to criminal convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official authority.

Amendment

(j) processing of data relating to criminal convictions, **criminal offences and matters which have not led to a conviction**, or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards **for the fundamental rights of the data subject**. A complete register of

criminal convictions shall be kept only under the control of official authority.

Or. en

Amendment 423
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 9 – paragraph 2 – point j

Text proposed by the Commission

(j) processing of data relating to criminal convictions or related security measures is carried out either under the ***control of official*** authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official authority.

Amendment

(j) processing of data relating to criminal convictions or related security measures is carried out either ***subject to the conditions and safeguards referred to in Article 83a*** or under the ***supervision of a supervisory*** authority or when the processing is necessary for compliance with ***or to avoid a breach of*** a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official authority.

Or. en

Justification

The amendment clarifies the wording by providing a supervised control for organisations that process criminal conviction data. Also the amendment clarifies that not every instance of processing carried out for legal or regulatory compliance reasons will be specifically required by law. In certain cases such processing will be undertaken as part of a risk management process designed to prevent a breach of the law.

Amendment 424
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 9 – paragraph 2 – point j a (new)

Text proposed by the Commission

Amendment

(ja) processing of data concerning health is necessary for private social protection, especially by providing income security or tools to manage risks that are in the interests of the data subject and his or her dependants and assets, or by enhancing inter-generational equity by means of distribution.

Or. en

Amendment 425
Amelia Andersdotter

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria, conditions and appropriate safeguards for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2.

deleted

Or. en

Amendment 426
Silvia-Adriana Țicău

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to

3. The European Data Protection Board

*adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria, conditions and appropriate safeguards for the **processing of the** special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2.*

*shall be entrusted with the task of issuing the recommendations regarding criteria, conditions and appropriate safeguards for the **protection of** special categories of personal data **in accordance with** paragraph 2.*

Or. en

Amendment 427
Jens Rohde

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

The controller of research databases shall provide general information on the original data sources of the research database.

Or. en

Justification

If a data subject wants to know what data are registered concerning him or her in a research database, this data subject shall be able to contact the original data source. Controllers of research databases shall inform what sources they use to collect research data and what the data is used for. This information shall be provided as a general basis, on homepages etc., with a reference to the source providing the data. Detailed information on the content of the data shall be provided from the original data source.

Amendment 428
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

Data Protection Regulation should not apply to data rendered anonymous. If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Or. en

Amendment 429
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

If the data processed by a controller do not permit the controller, ***through means used by the controller,*** to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Or. en

Amendment 430
Paul Rübzig

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

If the data processed by a controller do not permit the controller to identify a natural ***or legal*** person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Or. de

Amendment 431

Seán Kelly, Pilar del Castillo Vera, Angelika Niebler

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

If the data processed by a controller do not permit the controller to identify a natural person, ***in particular when rendered anonymous or pseudonymous***, the controller shall not be obliged to acquire additional information in order to identify ***or to individualise*** the data subject for the sole purpose of complying with any provision of this Regulation.

Or. en

Amendment 432

Franck Proust

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller ***do not permit*** the controller ***to identify a natural person***, the controller shall not be obliged

Amendment

If the data processed by a controller ***are anonymous, or*** the controller ***renders the data processed anonymous***, the controller

to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

shall not be obliged to acquire additional information *on consent* in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Or. fr

Amendment 433
Amelia Andersdotter

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not *be obliged to* acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Amendment

If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.

Or. en

Amendment 434
Bernd Lange

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. The controller shall have transparent *and easily accessible* policies with regard to the processing of personal data and for the exercise of data subjects' rights.

Amendment

1. The controller shall have transparent policies with regard to the processing of personal data and for the exercise of data subjects' rights *and on request for this purpose shall provide to everybody the information set out in points (a) through (g) of Article 28(2) in an appropriate manner.*

Or. en

Amendment 435
Bernd Lange

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. The controller shall provide any information and any communication relating to the processing of personal data ***to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.***

Amendment

2. The controller shall provide any information and any communication relating to the processing of personal data, ***which according to this Regulation he is obliged to provide access to,*** to the data subject ***in an intelligible form, which can be understood by an average informed, attentive and understanding average consumer.***

Or. en

Amendment 436
Eija-Riitta Korhola, Adina-Ioana Vălean

Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Article 12 of Directive 2002/58/EC and Articles 20 and 21(3)(e) of 2002/22/EC are an application of the data subjects' right to transparent information and communication which requires that the controller informs data subjects of their rights with respect to the use of their personal information and draws attention to the presence of systems which have been developed in accordance with the principles of privacy by design.

Or. en

Justification

Article 12 of the e-Privacy Directive and Articles 20 and 21 of the Universal Service Directive cover directory services, as part of the scope of universal services. The databases of directory service providers are required to be "comprehensive" and the inclusion of subscriber data is therefore important, as is the need for subscriber to be clearly informed of all their options, regardless of the model adopted by a Member State (opt-in, opt-out or hybrid).

Amendment 437 **Angelika Niebler**

Proposal for a regulation **Article 12 – paragraph 2**

Text proposed by the Commission

2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. ***Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.***

Amendment

2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing.

Or. de

Justification

An enormous amount of red tape could be involved, particularly for SMEs, if electronic arrangements had to be made to ensure that the procedure was conducted electronically.

Amendment 438 **Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde**

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller *shall* also provide means for requests to be made electronically.

Amendment

1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller *may* also provide means for requests to be made electronically.

Or. en

Amendment 439

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde, Seán Kelly

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the

Amendment

2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the

data subject.

data subject *or unless the controller has reason to believe that providing the information in electronic form would create a significant risk of fraud.*

Or. en

Justification

Releasing certain data in electronic form such as credit files could result in modification or identity theft when provided to consumers. Release of data should be dependent upon authentication checks which satisfy criteria set out by the agency holding the data to prevent interception, misuse, fraudulent use or modification.

Amendment 440

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 12 – paragraph 4

Text proposed by the Commission

4. The *information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.*

Amendment

4. The *charges for taking action or providing information upon the request of data subject referred to in paragraph 1 shall not exceed actual costs of handling the requests born by the controller.*

Or. en

Amendment 441

Giles Chichester

Proposal for a regulation

Article 12 – paragraph 4

Text proposed by the Commission

4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular ***because of*** their repetitive character, the controller may charge ***a*** fee for providing the information or taking the action requested, or the controller may ***not*** take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.

Amendment

4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular ***owing to their high volume, complexity or*** their repetitive character, the controller may charge ***an appropriate, not for profit,*** fee for providing the information or taking the action requested, or the controller may ***decline to*** take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.

Or. en

Justification

The provision of data held within a database has a cost. Requesting an appropriate, not for profit, contribution from data subjects for data access would help to limit frivolous requests and is critical in deterring fraudsters from obtaining high volumes of consumers' credit data which could be used for fraudulent purposes.

Amendment 442

Amelia Andersdotter

Proposal for a regulation

Article 12 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.

Amendment

deleted

Or. en

Amendment 443

Rachida Dati

Proposal for a regulation

Article 12 – paragraph 6

Text proposed by the Commission

6. The Commission *may* lay down standard forms and *specifying* standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Amendment

6. The Commission *shall* lay down standard forms and *specify* standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Or. fr

Justification

Standard forms and procedures need to be laid down in order to guarantee that this measure is properly implemented, in particular by micro, small and medium-sized enterprises.

Amendment 444

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 12 – paragraph 6

Text proposed by the Commission

6. The Commission may *lay down standard forms and* specifying standard procedures for the communication referred to in paragraph 2, *including the electronic format*. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

6. The Commission may specifying standard procedures for the communication referred to in paragraph 2. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 445
Amelia Andersdotter

Proposal for a regulation
Article 13

Text proposed by the Commission

The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed, ***unless this proves impossible or involves a disproportionate effort.***

Amendment

The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed.

Amendment 446
Amelia Andersdotter

Proposal for a regulation
Article 14 – paragraph 1 – point b

Text proposed by the Commission

(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);

Amendment

(b) the ***specific*** purposes of the processing for which the personal data are intended ***as well as information regarding the actual processing of personal data***, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller, ***as well as the reasons why the controller thinks that this interest overrides the interests or fundamental rights and freedoms of the data subject***, where the processing is based on point (f) of Article 6(1);

Justification

Data subject rights are indispensable for empowering data subjects to take the protection of their data into their own hands and enforce their rights against controllers. They are one of the main levers to hold controllers accountable. For this reason, the rights to information, access, rectification, deletion, and data portability should be strengthened to allow users to understand what happens to their data and to exercise control over it. Exceptions and exemptions

Amendment 447

Amelia Andersdotter

Proposal for a regulation

Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) the period for which the personal data will be stored;

Amendment

(c) the period for which the personal data will be stored, ***when it is feasible to name a precise period;***

Or. en

Amendment 448

Jean-Pierre Audy

Proposal for a regulation

Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) the period for which the personal data will be stored;

Amendment

(c) the period for which the personal data will be stored ***and the criteria which may be used as the basis for determining how long the data will be stored;***

Or. fr

Amendment 449

Alejo Vidal-Quadras

Proposal for a regulation
Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) the period for which the personal data will be stored;

Amendment

(c) the ***expected*** period for which the personal data will be stored;

Or. en

Amendment 450
Angelika Niebler

Proposal for a regulation
Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) the period for which the personal data will be stored;

Amendment

(c) the ***maximum*** period for which the personal data will be stored.

Or. de

Justification

The storage period varies considerably for all sorts of data and can often not be determined precisely from the outset. The maximum storage period for personal data should, however, be stated.

Amendment 451
Silvia-Adriana Țicău

Proposal for a regulation
Article 14 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the existence of certain processing operation which have a particular impact on individuals as well as the consequences of such processing on individuals;

Amendment 452
Silvia-Adriana Țicău

Proposal for a regulation
Article 14 – paragraph 1 – point e

Text proposed by the Commission

(e) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;

Amendment

(e) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority ***and the procedures to lodge such complaints;***

Or. en

Amendment 453
Amelia Andersdotter

Proposal for a regulation
Article 14 – paragraph 1 – point e

Text proposed by the Commission

(e) the right to lodge a complaint to the supervisory authority ***and the contact details of*** the supervisory authority;

Amendment

(e) the right to lodge a complaint to the supervisory authority ***as well as the information needed to contact*** the supervisory authority;

Or. en

Amendment 454
Amelia Andersdotter

Proposal for a regulation
Article 14 – paragraph 1 – point f

Text proposed by the Commission

(f) the recipients ***or categories of recipients*** of the personal data;

Amendment

(f) the recipients of the personal data;

Justification

Data subject rights are indispensable for empowering data subjects to take the protection of their data into their own hands and enforce their rights against controllers. They are one of the main levers to hold controllers accountable. For this reason, the rights to information, access, rectification, deletion, and data portability should be strengthened to allow users to understand what happens to their data and to exercise control over it. Exceptions and exemptions should be very limited.

Amendment 455**Amelia Andersdotter****Proposal for a regulation****Article 14 – paragraph 1 – point g a (new)***Text proposed by the Commission**Amendment*

(ga) where the controller processes personal data as described in Article 20(1), information about the existence of processing for a measure of the kind referred to in Article 20(1) and the intended effects of such processing on the data subject;

Justification

Data subject rights are indispensable for empowering data subjects to take the protection of their data into their own hands and enforce their rights against controllers. They are one of the main levers to hold controllers accountable. For this reason, the rights to information, access, rectification, deletion, and data portability should be strengthened to allow users to understand what happens to their data and to exercise control over it. Exceptions and exemptions should be very limited.

Amendment 456**Amelia Andersdotter****Proposal for a regulation****Article 14 – paragraph 1 – point g b (new)**

Text proposed by the Commission

Amendment

(gb) information regarding specific security measures taken to protect personal data;

Or. en

Amendment 457
Amelia Andersdotter

Proposal for a regulation
Article 14 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) any **further** information necessary to guarantee fair processing **in respect of** the data subject, **having regard to** the specific circumstances in which the personal data are collected.

(h) any **additional** information necessary to guarantee fair processing **on behalf of** the data subject, **taking into account** the specific circumstances in which the personal data are collected.

Or. en

Amendment 458
Silvia-Adriana Țicău

Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data **originate**.

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate. **This would include data sourced from a third party illegally and passed on to the controller.**

Or. en

Justification

Data subjects have the right to immediate notification if it has been found that their personal data have been accessed illegally to be used against them (e.g. blacklists).

Amendment 459 **Amelia Andersdotter**

Proposal for a regulation **Article 14 – paragraph 3**

Text proposed by the Commission

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.

Amendment

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate, ***except where the data originates from a publicly available source.***

Or. en

Amendment 460 **Bernd Lange**

Proposal for a regulation **Article 14 – paragraph 3**

Text proposed by the Commission

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.

Amendment

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject ***as far as possible,*** in addition to the information referred to in paragraph 1, from which source the personal data originate.

Or. en

Amendment 461
Silvia-Adriana Țicău

Proposal for a regulation
Article 14 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) *the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or*

deleted

Or. en

Amendment 462
Giles Chichester

Proposal for a regulation
Article 14 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or

(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort ***and generate excessive administrative burden, especially when the processing is carried out by a SME as defined in EU recommendation 2003/361***; or

Or. en

Justification

This amendment is aimed at ensuring that SMEs are not placed under unnecessary administrative strain by the Regulation.

Amendment 463
Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

Proposal for a regulation
Article 14 – paragraph 5 – point d a (new)

Text proposed by the Commission

Amendment

(da) the data originates from publicly available sources

Or. en

Amendment 464
Rachida Dati

Proposal for a regulation
Article 14 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises, ***in consultation with relevant stakeholders.***

Or. fr

Justification

The potential lack of transparency associated with delegated acts should be avoided by ensuring that they are drafted in close cooperation with the stakeholders affected.

Amendment 465
Amelia Andersdotter

Proposal for a regulation
Article 14 – paragraph 8

Text proposed by the Commission

8. The Commission *may* lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

8. The Commission *shall* lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary, *as well as the needs of the relevant stakeholders, including the possible use of layered notices*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 466
Amelia Andersdotter

Proposal for a regulation
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:

Amendment

1. The data subject shall have the right to obtain from the controller at any time, on request, *in clear and plain language*, confirmation as to whether or not personal data relating to the data subject are being processed, *and as to whether the controller takes measures in respect of the data subject that are based on profiles as referred to in Article 20(1). This shall also apply to data which only permit singling out, where the data subject can verifiably authenticate him/herself*. Where such personal data are being processed, *and/or such measures are taken*, the controller shall provide the following information:

Amendment 467
Jens Rohde

Proposal for a regulation
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. ***Where such personal data are being processed***, the controller shall provide the following information:

Amendment

1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. ***With the exception of data is being used for historical, statistical or scientific research purposes***, the controller shall provide the following information ***when personal data are being processed***:

Or. en

Amendment 468
Amelia Andersdotter

Proposal for a regulation
Article 15 – paragraph 1 – point c

Text proposed by the Commission

(c) the recipients ***or categories of recipients*** to whom the personal data are to be or have been disclosed, ***in particular to recipients in third countries***;

Amendment

(c) the recipients to whom the personal data are to be or have been disclosed, ***including all recipients in third countries***;

Or. en

Amendment 469
Angelika Niebler

Proposal for a regulation
Article 15 – paragraph 1 – point d

Text proposed by the Commission

(d) the period for which the personal data will be stored;

Amendment

(d) the **maximum** period for which the personal data will be stored.

Or. de

Justification

The storage period varies considerably for all sorts of data and can often not be determined precisely from the outset. The maximum storage period for personal data should, however, be stated.

Amendment 470
Silvia-Adriana Țicău

Proposal for a regulation
Article 15 – paragraph 1 – point f

Text proposed by the Commission

(f) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;

Amendment

(f) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority **and the procedures to lodge such complaints;**

Or. en

Amendment 471
Amelia Andersdotter

Proposal for a regulation
Article 15 – paragraph 1 – point f

Text proposed by the Commission

(f) the right to lodge a complaint to the supervisory authority and the contact **details** of the supervisory authority;

Amendment

(f) the right to lodge a complaint to the supervisory authority and the contact **information** of the supervisory authority;

Amendment 472
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 15 – paragraph 1 – point h

Text proposed by the Commission

(h) the significance and envisaged consequences of such processing, ***at least in the case of measures referred to in Article 20.***

Amendment

(h) the significance and envisaged consequences of such processing.

Amendment 473
Amelia Andersdotter

Proposal for a regulation
Article 15 – paragraph 1 – point h a (new)

Text proposed by the Commission

(ha) in the case of measures based on profiles, meaningful information about the logic about the logic used in the profiling;

Amendment

Amendment 474
Amelia Andersdotter

Proposal for a regulation
Article 15 – paragraph 1 – point h b (new)

Text proposed by the Commission

(hb) where applicable, in what manner and for what specific purposes the data

Amendment

will be processed for statistical purposes and how will be ensured that data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information;

Or. en

Amendment 475
Silvia-Adriana Țicău

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.

Amendment

2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject. ***The controller shall verify the identity for data subject requesting access to data within the limits of Art. 5-10 of the present Regulation.***

Or. en

Justification

This addition is needed to protect personal data.

Amendment 476
Jens Rohde

Proposal for a regulation
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The data subject shall have the right to obtain from the controller of the data source at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed to a research data base, in accordance with the provisions referred to in Article 10.

Or. en

Justification

Data in research databases will most often be considered personal data according to a high threshold of the definition of data considered personal. For linked research databases it would involve a disproportionate effort for the controller of the linked data to back track data on individual data subjects, since information on the single data subject may be build on data from different data sources, and data may not directly identifiable when the Key ID is kept with the controller of the original data source. Article 10 solves the paradox that in order to notify data subjects on data about him or her in the database, the controller should do what he is not allowed to, namely to identify that data subject.

Amendment 477

Jens Rohde, Adina-Ioana Vălean

**Proposal for a regulation
Article 15 – paragraph 4**

Text proposed by the Commission

Amendment

4. The Commission may **specify** standard forms and procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

4. The Commission may **suggest** standard forms and **specify** procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in

Article 87(2).

Or. en

Amendment 478
Amelia Andersdotter

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

The data subject **shall have** the right to obtain from the controller the rectification of personal data relating to them which are inaccurate. The data subject **shall** have the right to obtain completion of incomplete personal data, including by way of supplementing a corrective statement.

Amendment

The data subject **has** the right to obtain from the controller the rectification of personal data relating to them which are inaccurate. The data subject has the right to obtain completion of incomplete personal data, including by way of supplementing a corrective statement.

Or. en

Amendment 479
Amelia Andersdotter

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Right to ***be forgotten and to*** erasure

Amendment

Right to erasure

Or. en

Amendment 480
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Amendment

Right to *be forgotten and to* erasure

Right to erasure

Or. en

Amendment 481
Eija-Riitta Korhola

Proposal for a regulation
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:

1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, ***unless the data controller is a public authority or an entity commissioned by the authority or otherwise acting on the behalf of the authority***, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:

Or. en

Justification

Authorities have a statutory obligation to maintain several registers, and the data in those registers cannot be erased by the request of the data subject.

Amendment 482
Amelia Andersdotter

Proposal for a regulation
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The data subject ***shall have*** the right to

1. The data subject ***has*** the right to obtain

obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, *especially* in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:

from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, *including* in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:

Or. en

Justification

The word 'especially' hints at a stronger importance of the right to be forgotten when involving a child than when not involving a child. This nuance is irrelevant. 'Including' enables to point out the particularity of a child being the data subject without making any differentiation of importance of the general right to be forgotten.

Amendment 483

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) the data are no longer necessary in relation to the purposes for which they were collected or *otherwise* processed;

Amendment

(a) the data are no longer necessary in relation to the purposes for which they were collected or *further* processed *and the legally mandatory minimum retention period has expired*;

Or. en

Amendment 484

Amelia Andersdotter

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) the data subject withdraws consent on which the processing is based according to

Amendment

(b) the data subject withdraws consent on which the processing is based according to

point (a) of Article 6(1), or when the storage period consented to has expired, and where there *is* no other legal *ground* for the processing of the data;

point (a) of Article 6(1), or when the storage period consented to has expired, and where there *are* no other legal *grounds* for the processing of the data;

Or. en

Amendment 485
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;

Amendment

(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing *or storage* of the data;

Or. en

Justification

Public authorities might have legal grounds to storage data information even if it is not being processed to ensure the legal certainty for the individuals.

Amendment 486
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) the data subject objects to the processing of personal data pursuant to Article 19;

Amendment

(c) the data subject objects to the processing of personal data pursuant to Article 19, *and the objection is upheld*;

Or. en

Amendment 487
Giles Chichester

Proposal for a regulation
Article 17 – paragraph 1 – point d

Text proposed by the Commission

Amendment

***(d) the processing of the data does not
comply with this Regulation for other
reasons.*** ***deleted***

Or. en

Justification

The potential implications of this clause are unclear and would need to be explained.

Amendment 488
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

***1a. The controller shall take all
reasonable steps to communicate any
erasure to each legal entity to whom the
data have been disclosed.***

Or. en

Amendment 489
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 17 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The application of paragraph 1 is dependent upon the ability of the data controller to confirm the identity of the data subject making the erasure request.

Or. en

Amendment 490
Amelia Andersdotter

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.

deleted

Or. en

Amendment 491
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the controller referred to in

2. Where the controller referred to in

paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform **third parties** which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. **Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.**

paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform **legal entities to whom the original controller had authorised to further process personal data and** which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. The controller **will not be responsible for the personal data that the data subject has made public.**

Or. en

Amendment 492
Bernd Lange

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, **including technical measures**, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.

Amendment

2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps **as far as economically and technically possible**, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.

Or. en

Amendment 493
Jens Rohde, Bendt Bendtsen

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.

Amendment

2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.
Anonymised data, some pseudonymised data and encrypted data are exempted

Or. en

Justification

Exceptions from the general rules by stipulation that anonymised data, some pseudonymised data, publicly unavailable or unreadable data (e.g. encrypted data or data on backup) should be exempted from article 17 since it is cumbersome and even impossible delete all personal data from a third party and does not benefit the individual to do so.

Amendment 494
Amelia Andersdotter

Proposal for a regulation
Article 17 – paragraph 3 – introductory part

Text proposed by the Commission

3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:

Amendment

3. The controller shall carry out the erasure without delay ***and regardless of the effort required***, except to the extent that the retention of the personal data is necessary:

Or. en

Amendment 495
Alejo Vidal-Quadras

Proposal for a regulation
Article 17 – paragraph 3 – introductory part

Text proposed by the Commission

3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:

Amendment

3. The controller shall carry out the erasure without **unreasonable** delay, except to the extent that the retention **and dissemination** of the personal data is necessary:

Or. en

Amendment 496
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 17 – paragraph 3 – introductory part

Text proposed by the Commission

3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:

Amendment

3. The controller shall carry out the erasure without **undue** delay, except to the extent that the retention **and dissemination** of the personal data is necessary:

Or. en

Justification

Where controllers are subject to a legal obligation to retain and process data, they may also be obliged to transfer this data to relevant supervisory authorities, such as suspicious transaction reports to financial intelligence units in the context of anti-money laundering rules.

Amendment 497
Jens Rohde

Proposal for a regulation
Article 17 – paragraph 3 – point b

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Text proposed by the Commission

(b) for reasons of public interest in the area of public health in accordance with Article 81;

Amendment

(b) for reasons of public interest in the area of public health **and health purposes** in accordance with Article 81;

Or. en

Amendment 498

Amelia Andersdotter

Proposal for a regulation

Article 17 – paragraph 3 – point d

Text proposed by the Commission

(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall **meet an objective of** public interest, respect the **essence** of the right to the protection of personal data and be proportionate to the legitimate aim pursued;

Amendment

(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall **require justification with respect to the** public interest, respect the **principle** of the right to the protection of personal data and be proportionate to the legitimate aim pursued;

Or. en

Amendment 499

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 17 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(ea) for prevention or detection of fraud, confirming identity, and/or determining creditworthiness, or ability to pay.

Or. en

Amendment 500
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 17 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Requests for the rectification, erasure or blocking of data shall not prejudice processing that is necessary to secure, protect and maintain the resiliency of one or more information systems. In addition, the right of rectification and/or erasure or personal data shall not apply to any personal data that is required to be maintained by legal obligation or to protect the rights of the controller, processor or third parties.

Or. en

Justification

There are circumstances where the right of the data subject to rectify or erase personal data should not apply – for example, in compliance with EU Member States laws and other jurisdictions requiring maintenance of certain types of personal data for national security reasons or for investigations of potential wrongdoing.

Amendment 501
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 18

Text proposed by the Commission

Amendment

Article 18

deleted

Right to data portability

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured

format which is commonly used and allows for further use by the data subject.

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Justification

Data portability is a competition measure, not a data protection one. It could be open to abuse, as an ill-intended applicant borrower may alter the data in between receiving his credit history from one processor and presenting it to a lender. Data may not be stored or processed in the same language according to the same categories or procedures. It could also require organisations to disclose trade secrets, internal know-how or information on other customers.

Amendment 502
Eija-Riitta Korhola

Proposal for a regulation
Article 18

Text proposed by the Commission

Amendment

Article 18

deleted

Right to data portability

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Justification

Data subjects have the right of access established by Article 15 of the proposed Regulation. The right of access gives entry data subject the right to know which personal data are being processed. Article 18 which would enable data subjects to obtain a copy of their data in an electronic and structured format brings no significant added value in terms of the protection of citizens' personal data.

Amendment 503
Jens Rohde

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing ***in an electronic and structured format which is commonly used and allows for further use by the data subject.***

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing.

Or. en

Amendment 504
Amelia Andersdotter

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject ***shall have*** the right, where personal data are processed by electronic means ***and in a structured and commonly used format***, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject ***has*** the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic, ***interoperable*** and structured format which is commonly used and allows for further use by the data subject.

Or. en

Amendment 505
Silvia-Adriana Țicău

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and

Amendment

1. ***Without prejudice to the obligation in Article 5(e) to delete data when they are no longer necessary***, the data subject shall

commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain, **by request**, from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Or. en

Amendment 506
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, ***into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.***

Amendment

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system.

Or. en

Amendment 507
Amelia Andersdotter

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. Where the data subject has provided the personal data ***and the processing is based on consent or on a contract***, the data

Amendment

2. Where the data subject has provided the personal data, the data subject shall have the right to transmit those personal data

subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

Or. en

Amendment 508
Silvia-Adriana Țicău

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

Amendment

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject *or related to the data subject* and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.

Or. en

Amendment 509
Amelia Andersdotter

Proposal for a regulation
Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This right is without prejudice to the obligation to delete data when they are no

longer necessary under Article 5(e).

Or. en

Amendment 510

Seán Kelly, Pilar del Castillo Vera, Angelika Niebler

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Paragraphs 1 and 2 do not apply to the processing of anonymised and pseudonymised data, insofar as the data subject is not sufficiently identifiable on the basis of such data, or identification would require the controller to undo the process of pseudonymisation.

Or. en

Amendment 511

Seán Kelly

Proposal for a regulation

Article 18 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Paragraphs 1 and 2 do not apply where a controller can reasonably demonstrate that it is not possible to separate the data subject's data from data of other data subjects.

Or. en

Amendment 512

Pilar del Castillo Vera

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

3. The *Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*

Amendment

3. The *electronic format, related functionalities and procedures for the transmission of personal data pursuant to paragraph 2, shall be determined by the controller by reference to the most appropriate industry standards available or as defined by industry stakeholders or standardisation bodies. The Commission shall promote and assist industry, stakeholders and standardisation bodies in the mapping and adoption of technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2.*

Or. en

Amendment 513
Giles Chichester

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

3. *The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*

Amendment

3. The electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2 *shall be determined by the controller by reference to harmonised industry standards, or where these are not already defined, shall be developed by industry stakeholders through standardisation bodies.*

Or. en

Justification

The European Commission should not be the decision making body for establishing a harmonised electronic data transfer format. The approach proposed by this amendment is furthermore more technologically neutral and is more appropriate given the range of sectors covered by this Regulation.

Amendment 514

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 18 – paragraph 3

Text proposed by the Commission

3. The Commission may specify ***the electronic format referred to in paragraph 1 and*** the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

3. The Commission may specify the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 515

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Controller must ensure that sufficient documentation for a data subject's identity has been received, when the data subject enforces the rights referred to in articles 14-19 in this regulation.

Or. en

Justification

Citizens have to document their identities to enforce the rights in order to make sure that no form of identity theft can occur.

Amendment 516
Silvia-Adriana Țicău

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, ***on grounds relating to their particular situation***, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Amendment

1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Or. en

Justification

The right to object should not be dependent on grounds relating to particular situation of data subjects.

Amendment 517
Amelia Andersdotter

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject ***shall have*** the right to object, on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d), (e) ***and (f)*** of Article 6(1),

Amendment

1. The data subject ***has*** the right to object, on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d) ***and*** (e) of Article 6(1), unless the

unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Or. en

Amendment 518
Amelia Andersdotter

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

2. Where personal data are processed for direct marketing purposes ***or where processing is based on Article 6(1)(f)***, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner, ***using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child***, and shall be clearly distinguishable from other information.

Or. en

Amendment 519
Giles Chichester

Proposal for a regulation
Article 19 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where pseudonymous data are processed based on Article 6(1)(g), the data subject shall have the right to object free of charge to the processing. This

right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Amendment 520

Seán Kelly, Pilar del Castillo Vera, Angelika Niebler

Proposal for a regulation

Article 19 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where pseudonymised data is processed pursuant to point (g) of Art. 6 (1) the data subject shall have the right to object free of charge. This right shall be offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Amendment 521

Giles Chichester

Proposal for a regulation

Article 20 – title

Text proposed by the Commission

Amendment

Measures based on ***profiling***

Measures based on ***automated processing***

Or. en

Justification

Article 20 concerns automated processing rather than profiling. The title of this article should therefore be amended to “Measures based on automated processing”.

Amendment 522

Paul Rübzig

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

deleted

Or. de

Justification

The approach followed departs from a negative judgement of profiling, which is however very useful in marketing, for financial services and for the customization of goods and services. This paragraph must be deleted to reverse the approach and allow profiling, except when it can have the consequences specified later.

Amendment 523

Seán Kelly

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Every natural person shall have the right not to be subject to a ***measure*** which ***produces legal effects concerning this natural person or significantly affects this natural person, and*** which is based solely on automated processing intended to evaluate certain personal aspects relating to

1. A data subject shall have the right not to be subject to a ***decision*** which ***is unfair and discriminatory*** which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's

this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. en

Justification

Important to clarify the use of the term data subject and also the legally established term "unfair and discriminatory", as per Directive 2005/95/EC on Unfair Commercial Practices.

Amendment 524

Jens Rohde

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. ***Every*** natural person shall have the right not to be subject to a ***measure*** which ***produces legal effects concerning this natural person or significantly affects this natural person***, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person ***or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.***

Amendment

1. ***A*** natural person shall have the right not to be subject to a ***decision*** which ***is unfair or discriminatory***, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person.

Or. en

Amendment 525

Giles Chichester

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. **Every natural person** shall **have the right not to** be subject to a **measure which produces legal effects concerning this natural person or significantly affects this natural person**, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this **natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour**.

1. **A data subject** shall **not** be subject to a **decision which is unfair or discriminatory**, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this **data subject**.

Or. en

Justification

Article 20 in its current form does not recognise the positive uses of profiling nor does it take into account the varying levels of risk or impact on the privacy of the individuals associated with profiling. By focusing on techniques which are either "unfair" or "discriminatory" as defined in Directive 2005/29/EC the approach in this proposal is more technologically neutral and focuses on the negative uses of profiling techniques rather than the technology itself.

Amendment 526

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Every **natural person** shall have the right not to be subject to a measure which **produces legal effects concerning this natural person or significantly affects this natural person**, and which is based solely on automated processing intended to evaluate **certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation,**

1. Every **data subject** shall have the right **to request** not to be subject to a measure which **adversely** affects this **data subject** and which is based solely on automated processing **of data** intended to evaluate, analyse or predict **the data subject's** performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

location, health, personal preferences, reliability or behaviour.

Or. en

Justification

Additional, distinct measures for processing of personal data through automated means are only justified for cases where the measure produces adverse legal effects; any other profiling that constitutes processing of personal data is normal processing and already subject to all the provisions of the Regulation.

Amendment 527

Amelia Andersdotter

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right, ***both off-line and online***, not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. en

Justification

Profiling can entail serious risks for data subjects. It is prone to reinforcing discriminations, making decisions less transparent and carries an unavoidable risk of wrong decisions. For these reasons, it should be tightly regulated: its use should be clearly limited, and in those cases where it can be used, there should be safeguards against discrimination and data subjects should be able to receive clear and meaningful information on the logic of the profiling and its consequences. While some circles see profiling as a panacea for many

problems, it should be noted that there is a significant body of research addressing its limitations. Notably, profiling tends to be useless for very rare characteristics, due to the risk of false positives. Also, profiles can be hard or impossible to verify. Profiles are based on complex and dynamic algorithms that evolve constantly and that are hard to explain to data subjects. Often, these algorithms qualify as commercial secrets and will not be easily provided to data subjects. However, when natural persons are subject to profiling, they should be entitled to information about the logic used in the measure, as well as an explanation of the final decision if human intervention has been obtained. This helps to reduce intransparency, which could undermine trust in data processing and may lead to loss of trust in especially online services. There is also a serious risk of unreliable and (in effect) discriminatory profiles being widely used, in matters of real importance to individuals and groups, which is the motivation behind several suggested changes in this Article that aim to improve the protection of data subjects against discrimination. In relation to this, the use of sensitive data in generating profiles should also be restricted.

Amendment 528
Angelika Niebler

Proposal for a regulation
Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purposes of advertising, market research or tailoring telemedia, user profiles may be created using pseudonymised data, provided that the person concerned does not object. The person concerned must be informed of his/her right to object. User profiles may not be combined with data about the bearer of the pseudonym.

Or. de

Justification

The original wording of Article 20 could lead to companies having to obtain consent for any form of processing personal data. In order, however, not to destroy the business models of countless small and medium-sized European companies in particular, and thus give priority to large US firms, certain forms of data processing should be allowed with due respect to the protection of personal data.

Amendment 529
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Data controllers should notify the data subject where such processing takes place and give the individual the right to have any such decision reviewed.

Or. en

Justification

Profiling for the purposes of credit scoring should be clearly distinguished from other purposes, not least in that this profiling is clearly notified to the individual in advance.

Amendment 530
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Is based on pseudonymous data.

Or. en

Amendment 531
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 20 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Is based on the legitimate interests pursued by the data controller.

Amendment 532
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. Subject to the other provisions of this Regulation, a person may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

deleted

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment 533
Giles Chichester

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. Subject to the other provisions of this Regulation, a person may be subjected to

deleted

a measure of the kind referred to in paragraph 1 only if the processing:

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Or. en

Justification

Deletion following proposed amendment to paragraph 1.

Amendment 534

Paul Rübzig

Proposal for a regulation

Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Subject to the other provisions of this Regulation, *a person may be subjected to* a measure *of the kind referred to in paragraph 1* only if the processing:

Amendment

2. Subject to the other provisions of this Regulation, a measure *which produces legal effects concerning a person or significantly affects this person, and which is intended to evaluate certain personal aspects relating to this person or to analyse or predict in particular the person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour shall only be lawful* if the processing

Justification

Changing the approach, profiling is allowed if the data subject is aware of it and has the possibility to access the personal data used (Art. 15) and change them if wrong (Art. 16).

Amendment 535
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Subject to the other provisions of this Regulation, a person may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

Amendment

2. Subject to the other provisions of this Regulation, **including paragraphs (3) and (4)**, a person may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

Or. en

Amendment 536
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Subject to the other provisions of this Regulation, a **person** may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

Amendment

2. Subject to the other provisions of this Regulation, a **data subject** may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

Or. en

Amendment 537
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

deleted

Or. en

Amendment 538
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) is *carried out in the course of* the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, *such as* the right to obtain human intervention; or

(a) is **necessary for** the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, **including the right to be provided with meaningful information about the logic used in the profiling, and the right to obtain human intervention, including an explanation of the decision reached after such** intervention; or

Or. en

Amendment 539
Silvia-Adriana Țicău

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Amendment

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as ***arrangements allowing him to put his point of view or*** the right to obtain human intervention; or

Or. en

Amendment 540
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 2 – point b

Text proposed by the Commission

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Amendment

deleted

Or. en

Amendment 541
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 2 – point b

Text proposed by the Commission

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data

Amendment

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data

subject's legitimate interests; or

subject's legitimate interests, *and which protects the data subjects against possible discrimination resulting from measures described in paragraph 1*; or

Or. en

Amendment 542

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is *expressly authorized* by a Union or Member State law *which also lays down suitable measures to safeguard the data subject's legitimate interests*; or

(b) is *necessary to comply with* a Union or Member State law; or

Or. en

Justification

It cannot be the task of data controllers to check, whether the Member State law “lays down suitable measures to safeguard the data subject's legitimate interests”.

Amendment 543

Jens Rohde

Proposal for a regulation

Article 20 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

deleted

Or. en

Amendment 544
Angelika Niebler

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards. *deleted*

Or. de

Justification

The original wording of Article 20 could lead to companies having to obtain consent for any form of processing personal data. In order, however, not to destroy the business models of countless small and medium-sized European companies in particular, and thus give priority to large US firms, certain forms of data processing should be allowed with due respect to the protection of personal data.

Amendment 545
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, including effective protection against possible discrimination resulting from measures described in paragraph 1.

Or. en

Amendment 546
Paul Rübzig

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 **and to suitable safeguards.**

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7, **Article 15 and Article 16.**

Or. de

Justification

Changing the approach, profiling is allowed if the data subject is aware of it and has the possibility to access the personal data used (Art. 15) and change them if wrong (Art. 16).

Amendment 547
Seán Kelly, Pilar del Castillo Vera, Angelika Niebler

Proposal for a regulation
Article 20 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) is limited to pseudonymised data. Such pseudonymised data must not be collated with data on the bearer of the pseudonym. Art. 19 (3) [new] shall apply correspondingly.

Or. en

Justification

In line with Article 15, paragraph 3 of the German Telemedia Act which encourages the pseudonymisation of data and provides a clear legislative framework for profiling in the areas of, inter alia, advertising and market research.

Amendment 548
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9. *deleted*

Or. en

Amendment 549
Giles Chichester

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9. *deleted*

Or. en

Justification

Deletion following proposed amendment to paragraph 1.

Amendment 550
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall

not *be based solely on* the special categories of personal data referred to in Article 9.

not *include or generate any data that fall under* the special categories of personal data referred to in Article 9, *except when falling under the exceptions listed in Article 9(2)*.

Or. en

Amendment 551
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Profiling that (whether intentionally or otherwise) has the effect of discriminating against individuals on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, or sexual orientation, or that (whether intentionally or otherwise) result in measures which have such effect, shall be prohibited.

Or. en

Amendment 552
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be used to identify or individualise children.

Or. en

Amendment 553
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject. *deleted*

Or. en

Amendment 554
Giles Chichester

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject. *deleted*

Or. en

Justification

Deletion following proposed amendment to paragraph 1.

Amendment 555
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 **and 15** shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject, ***as well as the access to the logic underpinning the data undergoing processing.***

Or. en

Amendment 556
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 ***and the envisaged effects of such processing on the data subject.***

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1.

Or. en

Amendment 557
Jens Rohde

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2. *deleted*

Or. en

Amendment 558
Giles Chichester

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2. *deleted*

Or. en

Justification

Deletion following proposed amendment to paragraph 1.

Amendment 559
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

deleted

Or. en

Amendment 560
Amelia Andersdotter

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. **The Commission shall be empowered to** adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

5. Within six months of the coming into force of this Regulation, the Commission shall adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subjects' legitimate interests referred to in paragraph 2. **The Commission shall consult representatives of data subjects and the Data Protection Board on its proposals before issuing them.**

Or. en

Amendment 561
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Union or Member State law may restrict

1. Union or Member State law may restrict

by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to **20** and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to **19** and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

Or. en

Amendment 562
Jens Rohde, Bendt Bendtsen

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;

deleted

Or. en

Justification

Like in the case of article 6, paragraph 3, Member States have very broad possibilities to make national legislation that creates exceptions to this regulation. This will create different implementation of this regulation across Member States and it has the potential to erode citizens' protection of data.

Amendment 563
Silvia-Adriana Țicău

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ***other public interests of the Union or of a Member State, in particular*** an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters ***and the protection of market stability and integrity***;

(c) an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters;

Or. en

Justification

Keeps the wording of Directive 95/46/EC and does not allow too broad restrictions.

Amendment 564
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters ***and the protection of market stability and integrity***;

(c) other ***important*** public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters;

Or. en

Amendment 565
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d);

deleted

Or. en

Amendment 566
Jens Rohde, Bendt Bendtsen

Proposal for a regulation
Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Parties on the labour market may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction have been agreed by national collective agreements to constitutes a necessary and proportionate measure.

Or. en

Justification

The labour market is regulated very differently in the different Member States. Some Member States have a tradition with legislation and other Member States have a high degree of regulation that stems from collective agreements on the labour market.

Amendment 567
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing **and the determination of the controller.**

Amendment

2. In particular, any legislative measure referred to in paragraph 1 **must comply with the standards of necessity and proportionality and** shall contain specific provisions at least as to:

(a) the objectives to be pursued by the processing;

(b) the determination of the controller;

(c) the specific purposes and means of processing;

(d) the categories of persons authorised to process the data;

(e) the procedure to be followed for the processing;

(f) the safeguards against any arbitrary interferences by public authorities;

(g) the right of data subjects to be informed about the restriction.

Or. en

Amendment 568

Silvia-Adriana Țicău

Proposal for a regulation

Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The restrictions applied to the processing performed by private controllers for law enforcement purposes should not force them to retain data in addition to those strictly necessary for the original purpose pursued nor to change their IT architecture.

Or. en

Justification

The restrictions applied to the processing performed by private controllers for law enforcement purposes should not force them to retain data in addition to those strictly necessary for the original purpose pursued nor to change their IT architecture.

Amendment 569
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Legislative measures referred to in paragraph 1 shall not impose obligations on private controllers to retain data additional to those strictly necessary for the original purpose.

Or. en

Amendment 570
Amelia Andersdotter

Proposal for a regulation
Article 21 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Legislative measures referred to in paragraph 1 shall be notified to the European Data Protection Board for opinion. If the European Data Protection Board considers that the notified measure does not comply with the requirements of paragraph 2, it shall inform the Commission. The Commission shall then consider launching the procedure established under Article 258 of the Treaty on the Functioning of the European Union.

Or. en

Amendment 571

Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

1. ***The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.***

Amendment

1. ***Having regard to the state of the art, the nature of personal data processing and the type of the organization, both at the time of the determination of the means for processing and at the time of the processing itself, appropriate and demonstrable technical and organizational measures should be implemented in such a way that the processing will meet the requirements of this Regulation and ensures the protection of the rights of the data subject by design.***

Or. en

Justification

The Regulation should provide enough flexibility to allow different organizations to implement the most effective technical and organizational measures, fit for the nature and structure of each respective organization.

Amendment 572

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Upon request by the competent data protection authority, the controller or processor shall demonstrate the existence of technical and organizational measures.

Or. en

Amendment 573
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Group of undertakings may apply joint technical and organizational measures to meet its obligations arising from the Regulation.

Or. en

Amendment 574
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. This article does not apply to a natural person processing personal data without commercial interest.

Or. en

Amendment 575
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The measures provided for in paragraph 1 shall in particular include:

2. Such measures include, without limitation:

Or. en

Amendment 576
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) keeping the documentation pursuant to Article 28;

Amendment

(a) independent management oversight of processing of personal data to ensure the existence and effectiveness of the technical and organizational measures;

Or. en

Amendment 577
Silvia-Adriana Țicău

Proposal for a regulation
Article 22 – paragraph 2 – point a a (new)

Text proposed by the Commission

(aa) implementing a control management system, including the assignment of responsibilities, training of staff and adequate instructions;

Amendment

Or. en

Amendment 578
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) implementing the data security requirements laid down in Article 30;

Amendment

(b) existence of proper policies, instructions or other guidelines to guide data processing needed to comply with the Regulation as well as procedures and

enforcement to make such guidelines effective;

Or. en

Amendment 579
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) performing a data protection impact assessment pursuant to Article 33;

Amendment

(c) existence of proper planning procedures to ensure compliance and to address potentially risky processing of personal data prior to the commencement of the processing;

Or. en

Amendment 580
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point d

Text proposed by the Commission

(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);

Amendment

(d) existence of appropriate documentation of data processing to enable compliance with the obligations arising from the Regulation;

Or. en

Amendment 581
Amelia Andersdotter

Proposal for a regulation
Article 22 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority ***pursuant to*** Article 34(1) and (2);

(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority ***as stated by*** Article 34(1) and (2);

Or. en

Amendment 582
Eija-Riitta Korhola

Proposal for a regulation
Article 22 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) complying with the requirements for prior ***authorisation*** or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);

(d) complying with the requirements for prior ***notification*** or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);

Or. en

Justification

Procedures requiring prior authorisation are costly and time-consuming for the controller, and their added value compared to a system of prior notifications can also be questioned from the point of view of data protection. Prior notifications, which would give the supervising authority the possibility to react and act, are sufficient and also provides for a user-friendly data protection procedure.

Amendment 583
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) ***designating a*** data protection officer ***pursuant to*** Article 35(1).

(e) ***existence of adequately skilled data protection organization or*** data protection officer ***supported with adequate resources***

to oversee implementation of measures defined in this article and to monitor compliance with this Regulation, having particular regard to ensuring organizational independence of such data protection officer or organisation to prevent inappropriate conflicts of interest. Such a function may be fulfilled by way of a service contract;

Or. en

Amendment 584
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) existence of proper awareness and training of the staff participating in data processing and decisions thereto of the obligations arising from this Regulation.

Or. en

Amendment 585
Amelia Andersdotter

Proposal for a regulation
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) establishing and documenting the measures referred to in Article 11.

Or. en

Amendment 586
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

deleted

Or. en

Amendment 587
Amelia Andersdotter

Proposal for a regulation
Article 22 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The controller shall make public a summary of the measures referred to in paragraphs 1 and 2.

Or. en

Amendment 588
Silvia-Adriana Țicău

Proposal for a regulation
Article 22 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Any regular report of the activities of the controller shall contain a description of the policies and measures referred to in Article 22(1).

Or. en

Amendment 589

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises. *deleted*

Or. en

Amendment 590

Amelia Andersdotter

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further **criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the** conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, **and considering specific measures for micro, small and**

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3.

medium-sized-enterprises.

Or. en

Justification

Accountability principle should leave details to controller. Exemptions for SMEs cannot be delegated; in any case accountability ensures that measures fit businesses of all sizes.

Amendment 591

Amelia Andersdotter

Proposal for a regulation

Article 23 – title

Text proposed by the Commission

Amendment

Data protection *by design* and by *default*

Data protection *by default* and by *design*

Or. en

Amendment 592

Giles Chichester

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

Amendment

1. *Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.*

1. *Where required, mandatory measures may be adopted to ensure that categories of goods or services are designed and have default settings meeting the requirements of this Regulation relating to the protection of individuals with regard to the processing of personal data. Such measures shall be based on standardisation pursuant to [Regulation .../2012 of the European Parliament and of the Council on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC,*

**95/16/EC, 97/23/EC, 98/34/EC,
2004/22/EC, 2007/23/EC, 2009/23/EC and
2009/105/EC of the European Parliament
and of the Council and repealing
Decision 87/95/EEC and Decision No
1673/2006/EC].**

Or. en

Justification

This is part of a package of amendments aimed at recognising that, while data protection by design and default is a commendable concept, the Commission's proposal does not achieve sufficient certainty while creating a risk for possible restrictions on free movement. Therefore, the established mechanism of using standardisation, as compiled in the 'Standardisation Package', should be used to harmonise the applicable requirements and enabling free movement instead.

Amendment 593 Amelia Andersdotter

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate ***technical and organisational*** measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject. ***This shall include both:***

(a) technical measures relating to the technical design and architecture of the product or service; and

(b) organisational measures which relate to operational policies of the controller.

Where a controller has carried out a data protection impact assessment pursuant to

Article 33, the results of this shall be taken into account when developing the measures referred to in points (a) and (b) of this paragraph.

Or. en

Amendment 594
András Gyürk

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject. ***Notwithstanding, the controller should only be burdened with measures that are proportionate to the risk of data processing reflected by the nature of the personal data to be processed.***

Or. en

Amendment 595
Jens Rohde

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, ***both*** at the time of the determination

Amendment

1. Having regard to the state of the art and the cost of implementation, the controller shall, at the time of the determination of

of the means for processing *and* at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

the means for processing at the time of the processing itself, *and when significant changes are made to the processing environment*, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. en

Justification

Is important that privacy is also taken into consideration when systems are changed. Often, when systems are changed there is focus on adding a new kind of functionality and in this process it is neglected that the initial high privacy and security requirements should still be adhered to.

Amendment 596

Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art *and* the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate *technical and organisational* measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art, the cost of implementation *and international best practices*, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. en

Amendment 597

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. Such measures and procedures shall:

(a) take due account of existing technical standards and regulations in the area of public safety and security

(b) follow the principle of technology, service and business model neutrality

(c) be based on global industry-led efforts and standards

(d) take due account of international developments

Or. en

Amendment 598
Giles Chichester

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are

Amendment

2. Until such time as mandatory measures have been adopted pursuant to paragraph 1, Member States shall ensure that no mandatory design or default requirements are imposed on goods or services relating

especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

to the protection of individuals with regard to the processing of personal data which could impede the placing of equipment on the market and the free circulation of such goods and services in and between Member States.

Or. en

Justification

This is part of a package of amendments aimed at recognising that, while data protection by design and default is a commendable concept, the Commission's proposal does not achieve sufficient certainty while creating a risk for possible restrictions on free movement. Therefore, the established mechanism of using standardisation, as compiled in the 'Standardisation Package', should be used to harmonise the applicable requirements and enabling free movement instead.

Amendment 599 **Amelia Andersdotter**

Proposal for a regulation **Article 23 – paragraph 2**

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. ***This shall be ensured using technical and/or organisational measures, as appropriate.*** In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals ***and that data subjects can control the distribution of their personal data.***

Amendment 600
Bernd Lange

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals. ***The provisions in sentence 1 and 2 shall not apply with regard to the processing of data the purpose of which is the fulfilment of statutory obligations and/or which is in the public interest, insofar as such obligation or task is aimed at the best possible completeness of a data base. This in particular applies to telecommunications subscriber directories.***

Amendment 601
Paul Rübzig

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement

Amendment

2. The controller shall implement

mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of *individuals*.

mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of *natural persons*.

Or. de

Amendment 602
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In implementing the provisions of this Regulation, it shall be ensured that no mandatory requirements for specific technical features are imposed on products and services, including terminal or other electronic communications equipment, which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.

Or. en

Amendment 603
Giles Chichester

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to ***deleted***

adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.

Or. en

Justification

This amendment is in accordance with the proposed change to Article 23 (1).

Amendment 604
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services. *deleted*

Or. en

Amendment 605
Amelia Andersdotter

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design **requirements** applicable across sectors, products and services.

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for **the requirements of** data protection by design **that are** applicable across sectors, products and services.

Or. en

Amendment 606
Giles Chichester

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

deleted

Or. en

Justification

This amendment is in accordance with the proposed change to Article 23 (1).

Amendment 607
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. *The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*

4. *Where required, measures may be adopted to ensure that terminal equipment is constructed in a way that is compatible with Council Decision 87/95/EEC of 22 December 1986 on standardisation in the field of information technology and communications, and consistent with international industry-led standardisation efforts.*

Or. en

Amendment 608

Amelia Andersdotter

**Proposal for a regulation
Article 23 – paragraph 4**

Text proposed by the Commission

Amendment

4. The Commission may *lay down* technical standards for the requirements laid down in *paragraph* 1 and 2. *Those* implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

4. The Commission may *specify* technical standards for the requirements laid down in *paragraphs* 1 and 2. *Such* implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 609

Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

**Proposal for a regulation
Article 24 – paragraph 1**

Text proposed by the Commission

Amendment

Where a controller determines the purposes, *conditions and means* of the processing of personal data jointly with others, the joint controllers shall determine

Where a controller determines the purposes of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities

their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them. ***The arrangement shall duly reflect the joint controllers' respective effective roles and relationships vis-à-vis data subjects.***

Or. en

Justification

The arrangement to be entered into by joint controllers should be expressly required to duly reflect the joint controllers' respective roles and relationships with the data subjects. Joint controllers are not necessarily in an equal negotiation position when it comes to contractual agreements. Moreover, not all joint controllers enjoy a direct relationship with the data subject and they do not control the same kind and amount of personal data.

Amendment 610 **Seán Kelly, Adina-Ioana Vălean**

Proposal for a regulation **Article 24 – paragraph 1**

Text proposed by the Commission

Where a controller determines the purposes, ***conditions and means*** of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment

Where a controller determines the purposes of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Or. en

Justification

In line with amendment to definition of controller (Article 4, point 5), it is important to clarify that the controller determines the purpose for data processing, whereas the processor

determines the conditions and means.

Amendment 611
Amelia Andersdotter

Proposal for a regulation
Article 25 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance with Article 41; or

deleted

Or. en

Amendment 612
Amelia Andersdotter

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

*(b) an enterprise **employing fewer** than 250 persons; or*

*(b) an enterprise **processing personal data relating to less** than 250 data subjects; or*

Or. en

Amendment 613
Amelia Andersdotter

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

Amendment

4. The designation of a representative by the controller shall be without prejudice to legal actions which could be **initiated**

4. The designation of a representative by the controller shall be without prejudice to legal actions which could be **taken** against

against the controller itself.

the controller itself.

Or. en

Amendment 614
Giles Chichester

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Amendment

1. Where a processing operation is to be carried out on behalf of a controller **and which involves the processing of data that would permit the processor to reasonably identify the data subject**, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures. **The controller remains solely responsible for ensuring compliance with the requirements of this Regulation.**

Or. en

Justification

Where, due to proper anonymisation techniques, it is technically not feasible for the processor to identify a data subject, Article 26 shall not apply. The lessening of administrative burdens will incentivise investment in effective anonymisation technology and use of strong system of restricted access. The basic principle according to which primary and direct responsibility and liability for processing is incumbent upon the controller should be clearly stated in this Article.

Amendment 615
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Amendment

1. Where a processing operation is to be carried out on behalf of a controller **and involves the processing of data that would permit the processor to reasonably identify the data subject**, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures. ***The controller remains solely responsible for ensuring compliance with the requirements of this Regulation.***

Or. en

Justification

Where it is technically not feasible for the processor to identify a data subject, e.g. due to the use of proper anonymization techniques, Article 26 shall not apply. The lessening of administrative burdens will incentivize investment in robust anonymisation technology and use of strong system of restricted access, ultimately strengthening data subject protections.

Amendment 616
Seán Kelly, Adina-Ioana Vălean, Angelika Niebler

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Amendment

1. Where a processing operation is to be carried out on behalf of a controller **and which involves the processing of data that would permit the processor to reasonably identify the data subject**, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Or. en

Justification

This amendment is important as it incentivises the use of anonymisation techniques and thus contributes to the goal of data minimisation. The less the processor knows about the data subject, the better.

Amendment 617

Seán Kelly, Angelika Niebler

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller **and stipulating in particular that the processor** shall:

Amendment

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller. **The controller and processor shall be free to determine respective roles and responsibilities with respect to the requirements of this Regulation, and shall provide for the**

following:

Or. en

Justification

The controller-processor relationship should be governed by normal contract law with each contracting party free to negotiate their rights and responsibilities as part of the agreement.

Amendment 618

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller ***and stipulating in particular that the processor shall:***

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller.

Or. en

Amendment 619

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) act only on instructions from the controller, in particular, where the transfer of the personal data used is prohibited;

deleted

Or. en

Amendment 620
Seán Kelly, Angelika Niebler

Proposal for a regulation
Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) act only on instructions from the controller, in particular, where the transfer of the personal data used is prohibited;

Amendment

(a) ***the processor shall*** act only on instructions from the controller, in particular, where the transfer of the personal data used is prohibited;

Or. en

Amendment 621
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point b

Text proposed by the Commission

(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality;

Amendment

deleted

Or. en

Amendment 622
Silvia-Adriana Țicău

Proposal for a regulation
Article 26 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) take account of the principle of data protection by design;

Or. en

Amendment 623
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) take all required measures pursuant to Article 30; **deleted**

Or. en

Amendment 624
Pilar del Castillo Vera

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) enlist another processor only with the prior permission of the controller; **deleted**

Or. en

Amendment 625
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) enlist another processor only with the prior permission of the controller; **deleted**

Or. en

Amendment 626
Seán Kelly, Adina-Ioana Vălean, Angelika Niebler

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) enlist another processor only with the prior permission of the controller; ***deleted***

Or. en

Justification

This is administratively burdensome and does not reflect the reality of processors contracting a significant number of (often SME) sub-processors. It is up to the processor to carry out their own due diligence and establish liability under normal contract law with sub-processors. The re-opening of the contractual relationship between controller and processor every time the processors contracts a sub-processor therefore would add enormous administrative burdens to all parties, without any guarantee of an increase in data protection for data subjects.

Amendment 627
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the necessary technical and organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III; ***deleted***

Or. en

Amendment 628
Seán Kelly, Angelika Niebler

Proposal for a regulation
Article 26 – paragraph 2 – point e

Text proposed by the Commission

(e) insofar as this is possible given the nature of the processing, ***create in agreement with the controller the necessary*** technical and ***organisational*** requirements ***for the fulfilment*** of the ***controller's obligation*** to respond to requests for exercising the data subject's rights laid down in Chapter III;

Amendment

(e) insofar as this is possible given the nature of the processing ***and the processor's ability to assist with reasonable effort, an agreement as to the appropriate and relevant*** technical and ***organizational*** requirements ***which support the ability*** of the ***controller*** to respond to requests for exercising the data subject's rights laid down in Chapter III;

Or. en

Justification

In particular technical contexts, such as in the cloud context, it is often neither desirable, based on the principle of data minimisation, nor possible for the processor to aid the controllers in requests for the for exercising data subjects' rights.

Amendment 629
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point f

Text proposed by the Commission

(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34;

Amendment

deleted

Or. en

Amendment 630
Seán Kelly, Angelika Niebler

Proposal for a regulation
Article 26 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) **assist the controller in ensuring** compliance with the obligations pursuant to Articles 30 to 34;

(f) **insofar as this is possible given the nature of the processing, the information available to the processor and his ability to assist with reasonable effort, an agreement on how compliance will be ensured** with the obligations pursuant to Articles 28 to 34;

Or. en

Justification

As per amendment to Article 26, paragraph 2, point e

Amendment 631

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) **hand over all results to the controller after the end of the processing and not process the personal data otherwise;**

deleted

Or. en

Amendment 632

Seán Kelly, Angelika Niebler

Proposal for a regulation

Article 26 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) hand over all results to the controller after the end of the processing and **not process the personal data otherwise;**

(g) hand over all results to the controller after the end of the processing and **or destroy it in a commercially accepted manner;**

Justification

Make explicit reference to destruction to ensure data minimisation is physically implemented.

Amendment 633

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) make available to the controller and the supervisory authority all information necessary to control compliance with the obligations laid down in this Article.

deleted

Or. en

Amendment 634

Amelia Andersdotter

Proposal for a regulation

Article 26 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) take into account the principle of data protection by design.

Or. en

Amendment 635

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2. *deleted*

Or. en

Amendment 636
Pilar del Castillo Vera

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24. *deleted*

Or. en

Amendment 637
Seán Kelly, Adina-Ioana Vălean

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24. *deleted*

Or. en

Justification

This creates legal uncertainty and runs counter to the goal of data minimisation. If the processor processes data contrary to the instructions of the data controller, the processor is in breach of contract. If there is a legitimate means for the processor to process data contrary to the instructions of the controller, this will lead to a number of unintended consequences such as the obligation of the data subject to establish a relationship with the processor in order to enact his/her rights under Chapter III.

Amendment 638

Amelia Andersdotter

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. **deleted**

Or. en

Justification

Accountability principle should leave details to controller and processor

Amendment 639

Pilar del Castillo Vera

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. *deleted*

Or. en

Amendment 640

Seán Kelly, Adina-Ioana Vălean, Angelika Niebler

**Proposal for a regulation
Article 26 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. *deleted*

Or. en

Amendment 641

Pilar del Castillo Vera

**Proposal for a regulation
Article 28 – paragraph 1**

Text proposed by the Commission

1. Each controller and **processor and**, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Amendment

1. Each controller and, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Or. en

Amendment 642

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

1. Each controller **and processor and**, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Amendment

1. Each controller and, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Or. en

Amendment 643

Giles Chichester

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of **all processing operations** under its responsibility.

Amendment

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of **the main categories of processing** under its responsibility.

Or. en

Justification

Effective data protection requires organisations to have a sufficiently documented understanding of their data processing activities, however the maintenance of documentation for all processing operations is disproportionately burdensome. Instead of satisfying bureaucratic needs, the aim of the documentation should be to help controllers and processors meet their obligations.

Amendment 644

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

1. Each controller and ***processor and***, if any, the controller's representative, shall maintain documentation of ***all*** processing operations under its responsibility.

Amendment

1. Each controller and, if any, the controller's representative, shall maintain ***appropriate*** documentation of ***the main*** processing operations under its responsibility.

Or. en

Amendment 645

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The obligation made to the controller shall not apply to SMEs processing data only as an activity ancillary to the sale of goods or services. Ancillary activity should be defined as business or non-trade activity that is not associated with the core activities of a firm. In relation to data protection, data processing activities which do not represent more than 50% of company's turnover shall be considered ancillary.

Amendment 646
Giles Chichester

Proposal for a regulation
Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The documentation shall contain at least the following information:

2. The **core** documentation shall contain at least the following information:

Or. en

Justification

This change follows the amendment to Article 28(1).

Amendment 647
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the purposes of the processing, including the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);

deleted

Or. en

Amendment 648
Amelia Andersdotter

Proposal for a regulation
Article 28 – paragraph 2 – point c

Text proposed by the Commission

(c) the purposes of the processing, including the legitimate interests pursued by the controller ***where the processing is based on point (f) of Article 6(1);***

Amendment

(c) the purposes of the processing, including the legitimate interests pursued by the controller;

Or. en

Amendment 649
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point d

Text proposed by the Commission

(d) a description of categories of data subjects and of the categories of personal data relating to them;

Amendment

deleted

Or. en

Amendment 650
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point e

Text proposed by the Commission

(e) the recipients or categories of recipients of the personal data, including the controllers to whom personal data are disclosed for the legitimate interest pursued by them;

Amendment

deleted

Or. en

Amendment 651
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) where applicable, transfers of data to a third country or an international organisation, including the identification of that third country or international organisation and, in case of transfers referred to in point (h) of Article 44(1), the documentation of appropriate safeguards; ***deleted***

Or. en

Amendment 652
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) a general indication of the time limits for erasure of the different categories of data; ***deleted***

Or. en

Amendment 653
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) the description of the mechanisms referred to in Article 22(3). ***deleted***

Or. en

Amendment 654

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 28 – paragraph 3

Text proposed by the Commission

3. The controller **and the processor** and, if any, the controller's representative, shall make the documentation available, on request, to the supervisory authority.

Amendment

3. The controller and, if any, the controller's representative, shall make the documentation available, on request, to the supervisory authority.

Or. en

Amendment 655

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

Proposal for a regulation

Article 28 – paragraph 4 – introductory part

Text proposed by the Commission

4. The obligations referred to in paragraphs 1 and 2 shall not apply to the following controllers **and processors**:

Amendment

4. The obligations referred to in paragraphs 1 and 2 shall not apply to the following controllers:

Or. en

Amendment 656

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 28 – paragraph 4 – introductory part

Text proposed by the Commission

4. The obligations referred to in paragraphs 1 and 2 shall not apply to the following controllers **and processors**:

Amendment

4. The obligations referred to in paragraphs 1 and 2 shall not apply to the following controllers:

Or. en

Amendment 657
Amelia Andersdotter

Proposal for a regulation
Article 28 – paragraph 4 – point b

Text proposed by the Commission

(b) an enterprise or an organisation **employing fewer than 250 persons** that is processing personal data only as an activity ancillary to its main activities.

Amendment

(b) an enterprise or an organisation **processing personal data relating to less than 250 data subjects** that is processing personal data only as an activity ancillary to its main activities.

Or. en

Amendment 658
Eija-Riitta Korhola

Proposal for a regulation
Article 28 – paragraph 4 – point b

Text proposed by the Commission

(b) an enterprise or an organisation **employing fewer than 250 persons** that is processing personal data only as an activity ancillary to its main activities.

Amendment

(b) an enterprise or an organisation that is processing personal data only as an activity ancillary to its main activities.

Or. en

Justification

The limit of 250 employee's places employers in an unequal position, is discriminatory against larger enterprises and is by no means necessary for reaching the aim. The number of employees doesn't correlate with the amount or type of personal data kept by the organisation. A small organisation with just a few employees can control a huge amount of delicate personal data and vice versa.

Amendment 659
Jens Rohde

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the documentation referred to in paragraph 1, to take account of in particular the responsibilities of the controller and the processor and, if any, the controller's representative. *deleted*

Or. en

Amendment 660
Pilar del Castillo Vera

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the documentation referred to in paragraph 1, to take account of in particular the responsibilities of the controller and the processor and, if any, the controller's representative. *deleted*

Or. en

Amendment 661
Jens Rohde

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements*** for the documentation referred to in paragraph 1, ***to take account of in particular the responsibilities of the controller and the processor and, if any, the controller's representative.***

5. The Commission ***may lay down standard forms*** for the documentation referred to in paragraph 1. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

Or. en

Amendment 662

Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde

**Proposal for a regulation
Article 28 – paragraph 6**

Text proposed by the Commission

Amendment

6. The Commission may lay down standard forms for the documentation referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

deleted

Or. en

Amendment 663

Pilar del Castillo Vera

**Proposal for a regulation
Article 28 – paragraph 6**

Text proposed by the Commission

Amendment

6. The Commission may lay down standard forms for the documentation referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the

6. The Commission, ***after consulting the European Data Protection Board,*** may lay down standard forms for the documentation referred to in paragraph 1.

examination procedure referred to in Article 87(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 664
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. The controller and the processor and, if any, the representative of the controller, shall co-operate, on request, with the supervisory authority in the performance of its duties, in particular by providing the information referred to in point (a) of Article 53(2) and by granting access as provided in point (b) of that paragraph.

Amendment

1. The controller and the processor and, if any, the representative of the controller, shall co-operate, on request, with the supervisory authority in the performance of its duties, in particular by providing the information referred to in point (a) of Article 53(2) and by granting access as provided in point (b) of that paragraph.
The controller and the processor and, if any, the representative of the controller, shall make the documentation available, on the basis of a request outlining the reasons for requiring access to the documents, to the supervisory authority.

Or. en

Amendment 665
Franck Proust

Proposal for a regulation
Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the controller and the processor are established in several Member States for the purposes of the full or partial management of data, they shall be given the opportunity to designate their

main establishment.

Or. fr

Amendment 666

András Gyürk

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.

Amendment

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.

Notwithstanding, the controller and the processor should only be burdened with measures that are proportionate to the risk of data processing reflected by the nature of the personal data to be processed.

Or. en

Amendment 667

Amelia Andersdotter

Proposal for a regulation

Article 30 – paragraph 2

Text proposed by the Commission

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or

Amendment

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or

alteration of personal data.

alteration of personal data. *Where a controller has carried a data protection impact assessment pursuant to Article 33, the results of this assessment shall be taken into account in the evaluation of the risks.*

Or. en

Amendment 668
Silvia-Adriana Țicău

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.

Amendment

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data. *In particular, the controller shall adopt an information security management including, where appropriate, the implementation of an information security policy specific to the data processing performed.*

Or. en

Amendment 669
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 30 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The implementation by the controller and the processor of measures, as referred

to in paragraphs 1 and 2, and the execution thereof which would require processing of certain data to increase network and information security, falls under Article 6 (1) f.

Or. en

Amendment 670
Seán Kelly, Adina-Ioana Vălean, Angelika Niebler

Proposal for a regulation
Article 30 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The legal obligations, as referred to in paragraphs 1 and 2, which would require processing of personal data to the extent strictly necessary for the purposes of ensuring network and information security, constitute a legitimate interest pursued by, or on behalf of a data controller or processor.

Or. en

Justification

Data controllers and processors should ensure that they have the right organizational measures in place to ensure security of processing and hence, enhancing overall network and information security. Where the implementation of such measures would require the processing of data to ensure network and information security by the data controller or the processor, such processing should be deemed to be a legitimate interest for processing in line with recital 39 and Article 6(1) (f). A practical example of such measures is the blocking of certain IP numbers by the EU Commission for security purposes, as illustrated in its response to question E-007574/2012.

Amendment 671
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 30 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to: *deleted*

(a) prevent any unauthorised access to personal data;

(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;

(c) ensure the verification of the lawfulness of processing operations.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 672

Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation

Article 30 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2). *deleted*

Or. en

Amendment 673

Silvia-Adriana Țicău

Proposal for a regulation

Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **24** hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **24** hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **72** hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **72** hours.

Or. en

Amendment 674

Adina-Ioana Vălean, Jürgen Creutzmann

**Proposal for a regulation
Article 31 – paragraph 1**

Text proposed by the Commission

1. In the case of a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it***, notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***

Amendment

1. In the case of a personal data breach, ***when the breach is likely to produce legal effects to the detriment of the data subject's privacy, the controller shall without undue delay*** notify the personal data breach to the supervisory authority.

Or. en

Amendment 675

Ivailo Kalfin

**Proposal for a regulation
Article 31 – paragraph 1**

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **24** hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **24** hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **72** hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **72** hours.

Or. en

Amendment 676

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it,*** notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach ***that will have significant risk of harm to citizens, the controller shall without undue delay*** notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. en

Justification

It is important that only data breaches that have significant impact on public safety are reported. If there are too many reports of trivial breaches, citizens will no longer take care when they are notified. It is unrealistic to make a sensible reporting of an important break in less than 24 hours. Too quick notification will often result in subsequent adjustments to be issued and such announcements would undermine citizens' confidence - especially if there are more of these announcements.

Amendment 677
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller *immediately* after the *establishment of a* personal data breach.

Amendment

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller *without undue delay* after the *identification of a* personal data breach *that is likely to produce legal effects to the detriment of the data subject's privacy*.

Or. en

Amendment 678
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 31 – paragraph 3 – point e

Text proposed by the Commission

(e) describe the measures proposed or taken by the controller to address the personal data breach.

Amendment

(e) describe the measures proposed or taken by the controller to address the personal data breach *and/or mitigate its effects*.

Or. en

Amendment 679
Adina-Ioana Vălean, Jürgen Creutzmann

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This

Amendment

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This

documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

documentation must ***be sufficient to*** enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

Amendment 680
Amelia Andersdotter

Proposal for a regulation
Article 31 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The supervisory authority shall keep a public register of the types of breaches notified.

Or. en

Amendment 681
Adina-Ioana Vălean, Jürgen Creutzmann, Jens Rohde, Seán Kelly

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the ***notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

6. The Commission may lay down the standard format of such notification to the supervisory authority ***and*** the procedures applicable to the ***filing of reports.***

Or. en

Amendment 682
Silvia-Adriana Țicău

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay. ***A breach should be considered as adversely affecting the personal data or privacy of a data subject where it could result in, for example, identity theft or fraud, physical harm, significant humiliation or damage to reputation.***

Or. en

Justification

For clarity of the text.

Amendment 683
Amelia Andersdotter

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment

1. When the personal data breach is likely to adversely ***or seriously*** affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment 684
Amelia Andersdotter

Proposal for a regulation
Article 32 – paragraph 2

Text proposed by the Commission

2. The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points **(b) and (c)** of Article 31(3).

Amendment

2. The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points **(a) to (e)** of Article 31(3).

Or. en

Amendment 685
Silvia-Adriana Țicău

Proposal for a regulation
Article 32 – paragraph 2

Text proposed by the Commission

2. The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points **(b) and (c)** of Article 31(3).

Amendment

2. The communication to the data subject referred to in paragraph 1 shall ***be comprehensive, clear and understandable by any individual and shall*** describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points **(b), (c) and (d)** of Article 31(3).

Or. en

Amendment 686
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment

3. The communication of a personal data breach to the data subject shall not be required if the ***data breach does not have significant risk of harm to citizens and the*** controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Or. en

Amendment 687
Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. The communication of a personal data breach to the data subject shall not be required if the controller ***demonstrates to the satisfaction of the supervisory authority that it*** has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment

3. The communication of a personal data breach to the data subject shall not be required if the controller has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, ***unusable or anonymised*** to any person who is not authorised to access it.

Or. en

Amendment 688
Amelia Andersdotter

Proposal for a regulation
Article 32 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Amendment

5. The Commission shall be empowered to adopt, ***after consulting the European Data Protection Board***, delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Or. en

Amendment 689
Adina-Ioana Vălean, Jürgen Creutzmann, Seán Kelly

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a

Communication of a personal data breach to other organisations

A controller that communicates a personal data breach to a data subject pursuant to Article 32 may notify another organisation, a government institution or a part of a government institution of the personal data breach if that organisation, government institution or part may be able to reduce the risk of the harm that could result from it or mitigate that harm. Such notifications can be done without informing the data subject if the disclosure is made solely for the purposes of reducing the risk of the harm to the data subject that could result from the

breach or mitigating that harm.

Or. en

Justification

In many cases other organisations or government institutions are in a position to be able to assist in mitigating harm that may result to a data subject following a personal data breach if they are made aware of the breach and the circumstances surrounding the breach.