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Committee on Civil Liberties, Justice and Home Affairs

2012/0011(COD)

04.03.2013

AMENDMENTS (2)

602 - 885

Draft report
Jan Philipp Albrecht
(PE501.927v04-00)

on the proposal for a regulation of the European Parliament and of the Council
on the protection of individual with regard to the processing of personal data
and on the free movement of such data (General Data Protection Regulation)

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

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PE506.145v01-00

Amendment 602
Alexandra Thein

Proposal for a regulation
Recital 99

Text proposed by the Commission

(99) While this Regulation applies also to the activities of national courts, the competence of the supervisory authorities should not cover the processing of personal data when courts are acting in their judicial capacity, in order to safeguard the independence of judges in the performance of their judicial tasks. However, this exemption should be strictly limited to genuine judicial activities in court cases and not apply to other activities where judges might be involved in, in accordance with national law.

Amendment

(99) While this Regulation applies also to the activities of national courts, the competence of the supervisory authorities should not cover the processing of personal data when courts are acting in their judicial capacity, in order to safeguard the independence of judges in the performance of their judicial tasks. However, this exemption should be strictly limited to genuine judicial activities in court cases and ***in the area of preventive justice and*** not apply to other activities where judges might be involved in, in accordance with national law.

Or. en

Justification

In most Member States, preventive justice forms a part of the activity of judges. The independence of the judge must also be safeguarded in other proceedings than litigation (such as guardianship, land register or commercial register proceedings etc.).

Amendment 603
Csaba Sógor

Proposal for a regulation
Recital 101

Text proposed by the Commission

(101) Each supervisory authority should hear complaints lodged by any data subject and should investigate the matter. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case. The supervisory authority should

Amendment

(101) Each supervisory authority should hear complaints lodged by any data subject ***or organisation acting in the public interest*** and should investigate the matter. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in

inform the data subject of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject.

the specific case. The supervisory authority should inform the data subject **or the association** of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject.

Or. hu

Justification

In Hungary, ‘associations’ [egyesületek] are non-governmental. ‘Organisations’ [szervezetek] may, however, also be civil or public bodies.

Amendment 604

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 101

Text proposed by the Commission

(101) Each supervisory authority should hear complaints lodged by any data subject and should investigate the matter. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case. The supervisory authority should inform the data subject of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject.

Amendment

(101) Each supervisory authority should hear complaints lodged by any data subject **or by any body, association or organisation acting in the public interest or on behalf of one or more data subjects** and should investigate the matter. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case. The supervisory authority should inform the data subject **or, as the case may be, the body, association or organisation** of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject.

Or. en

Amendment 605

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 105

Text proposed by the Commission

(105) In order to ensure the consistent application of this Regulation throughout the Union, a consistency mechanism for co-operation between the supervisory authorities themselves and the Commission should be established. This mechanism should in particular apply where **a** supervisory authority intends to take a measure as regards processing operations that are related to the offering of goods or services to data subjects in several Member States, , or to the monitoring such data subjects, or that might substantially affect the free flow of personal data. It should also apply where any supervisory authority or the Commission requests that the matter should be dealt with in the consistency mechanism. This mechanism should be without prejudice to any measures that the Commission may take in the exercise of its powers under the Treaties.

Amendment

(105) In order to ensure the consistent application of this Regulation throughout the Union, a consistency mechanism for co-operation between the supervisory authorities themselves and the Commission should be established. This mechanism should in particular apply where **the competent** supervisory authority intends to take a measure as regards processing operations that are related to the offering of goods or services to data subjects in several Member States, or to the monitoring such data subjects, or that might substantially affect the free flow of personal data. It should also apply where any supervisory authority or the Commission requests that the matter should be dealt with in the consistency mechanism. This mechanism should be without prejudice to any measures that the Commission may take in the exercise of its powers under the Treaties.

Or. en

Amendment 606

Dimitrios Droutsas

Proposal for a regulation

Recital 107

Text proposed by the Commission

(107) In order to ensure compliance with this Regulation, the Commission may adopt ***an opinion on this matter, or a decision, requiring the supervisory***

Amendment

(107) In order to ensure compliance with this Regulation, the Commission may adopt ***a reasoned recommendation on matters raised.***

authority to suspend its draft measure.

Or. en

Amendment 607

Jan Mulder

Proposal for a regulation

Recital 110

Text proposed by the Commission

(110) At Union level, a European Data Protection Board should be set up. It should replace the Working Party on the Protection of Individuals with Regard to the Processing of Personal Data established by Directive 95/46/EC. It should consist of a head of a supervisory authority of each Member State and of the European Data Protection Supervisor. ***The Commission should participate in its activities.*** The European Data Protection Board should contribute to the consistent application of this Regulation throughout the Union, including by advising the Commission and promoting co-operation of the supervisory authorities throughout the Union. The European Data Protection Board should act independently when exercising its tasks.

Amendment

(110) At Union level, a European Data Protection Board should be set up. It should replace the Working Party on the Protection of Individuals with Regard to the Processing of Personal Data established by Directive 95/46/EC. It should consist of a head of a supervisory authority of each Member State and of the European Data Protection Supervisor. The European Data Protection Board should contribute to the consistent application of this Regulation throughout the Union, including by advising the Commission and promoting co-operation of the supervisory authorities throughout the Union. The European Data Protection Board should act independently when exercising its tasks.

Or. en

Justification

There is no reason for including the Commission in the EDPB which should act as a fully independent organ.

Amendment 608

Monika Hohlmeier

Proposal for a regulation

Recital 110

Text proposed by the Commission

Amendment

(110) At Union level, a European Data Protection Board should be set up. It should replace the Working Party on the Protection of Individuals with Regard to the Processing of Personal Data established by Directive 95/46/EC. It should consist of a head of a supervisory authority of each Member State and of the European Data Protection Supervisor. The Commission should participate in its activities. The European Data Protection Board should contribute to the consistent application of this Regulation throughout the Union, including by advising the Commission and promoting co-operation of the supervisory authorities throughout the Union. The European Data Protection Board should act independently when exercising its tasks.

(110) The European Data Protection Board should strengthen the dialogue with concerned stakeholders such as data subjects' associations, consumer organisations and other relevant stakeholders. This group of experts and stakeholders should be determined by the Board itself and should focus on issues that are of concern to all involved parties and should make the board aware of these issues. Further to this, the Chair of the Board may invite representatives of the European Parliament or other relevant bodies to attend the meetings of the Board.

Or. en

Amendment 609
Sophia in 't Veld

Proposal for a regulation
Recital 110 a (new)

Text proposed by the Commission

Amendment

(110a) The European Data Protection Board should work in a transparent way and, where possible and appropriate, consult stakeholders when developing specifications, opinions, guidelines or any other output on the basis of this Regulation.

Or. en

Amendment 610
Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Lara Comi, Monika

Proposal for a regulation
Recital 112

Text proposed by the Commission

Amendment

(112) Any body, organisation or association which aims to protects the rights and interests of data subjects in relation to the protection of their data and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

deleted

Or. en

Amendment 611
Kinga Gál

Proposal for a regulation
Recital 112

Text proposed by the Commission

Amendment

(112) Any body, organisation or association which aims to protects the rights and interests of data subjects in relation to the protection of their data and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, **or** to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

(112) Any body, organisation or association which aims to protects the rights and interests of data subjects in relation to the protection of their data and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects. **Every person has the right** to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

Or. hu

Amendment 612
Josef Weidenholzer

Proposal for a regulation
Recital 112

Text proposed by the Commission

(112) Any body, organisation or association which aims to protect the rights and interests of data subjects in relation *to the protection of their data and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.*

Amendment

(112) Any body, organisation or association which aims to protect the rights and interests of data subjects in relation (...) *or to lodge, independently of a data subject's complaint, an own complaint where it considers that a violation of this regulation has occurred. The Commission should promote collective enforcement of the rights of data subjects and as far as feasible within its budget provide funding for such bodies, organisations or associations.*

Or. en

Justification

The addition suggests funding for enforcement by NGOs and consumer organisations, without any duty for the Commission. Funding is necessary to ensure that this instrument will be used in practice and could also help prevent other modes of enforcement which lead to significant costs for controllers.

Amendment 613
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 112

Text proposed by the Commission

(112) Any body, organisation or association which aims to protect the rights and interests of *data subjects in relation to the protection of their data* and is constituted according to the law of a Member State should have the right to

Amendment

(112) Any body, organisation or association which aims to protect the rights and interests of *natural persons or is acting in the public interest* and is constituted according to the law of a Member State should have the right to

lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

Or. en

Amendment 614
Csaba Sógor

Proposal for a regulation
Recital 112

Text proposed by the Commission

(112) *Any* body, organisation or association which *aims to protect the rights and interests of data subjects in relation to the protection of their data and* is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

Amendment

(112) *In the spirit of this Regulation, any* body, organisation or association *acting in the public interest* which is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.

Or. hu

Justification

This is too general unless data protection is specifically mentioned, yet this Regulation supports this.

Amendment 615
Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Lara Comi, Monika Hohlmeier, Hubert Pirker

Proposal for a regulation
Recital 114

Text proposed by the Commission

(114) In order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association aiming to protect the rights and interests of data subjects in relation to the protection of their data to bring on the data subject's behalf proceedings against that supervisory authority to the competent court in the other Member State.

Amendment

deleted

Or. en

Amendment 616
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 114

Text proposed by the Commission

(114) In order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association aiming to protect the rights and interests of ***data subjects in relation to the protection of their data*** to bring on the data subject's behalf proceedings against that supervisory authority to the competent court in the other Member State.

Amendment

(114) In order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association aiming to protect the rights and interests of ***natural persons or acting in the public interest*** to bring on the data subject's behalf proceedings against that supervisory authority to the competent court in the other Member State.

Or. en

Amendment 617

Csaba Sógor

Proposal for a regulation

Recital 114

Text proposed by the Commission

(114) ***In*** order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association ***aiming to protect the rights and interests of data subjects in relation to the protection of their data*** to bring on ***the data subject's*** behalf proceedings against that supervisory authority to the competent court in the other Member State.

Amendment

(114) ***In the spirit of this Regulation, in*** order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association ***acting in the public interest*** to bring on ***their*** behalf proceedings against that supervisory authority to the competent court in the other Member State.

Or. hu

Justification

Consistent with the amendment to Recital 112.

Amendment 618

Kinga Gál

Proposal for a regulation

Recital 115

Text proposed by the Commission

(115) ***In situations where the competent supervisory authority established in another Member State does not act or has taken insufficient measures in relation to a complaint, the data subject may request the supervisory authority in the Member State of his or her habitual residence to bring proceedings against that supervisory authority to the competent court in the other Member State. The***

Amendment

deleted

requested supervisory authority may decide, subject to judicial review, whether it is appropriate to follow the request or not.

Or. hu

Amendment 619

Claude Moraes, Glenis Willmott

Proposal for a regulation

Recital 116

Text proposed by the Commission

(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers.

Amendment

(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers ***or another body which has been entrusted with a mission of public interest.***

Or. en

Justification

It should be the nature of the service provided, not the nature of the body providing the service that determines whether or not proceedings against a controller or processor can be brought before the courts of another Member State

Amendment 620

Axel Voss

Proposal for a regulation

Recital 118

Text proposed by the Commission

(118) Any damage which a person may suffer as a result of unlawful processing

Amendment

(118) Any damage which a person may suffer as a result of unlawful processing

should be compensated by the controller **or processor**, who may be exempted from liability if they prove that they are not responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure.

should be compensated by the controller, who may be exempted from liability if they prove that they are not responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure.

Or. en

Amendment 621

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 118

Text proposed by the Commission

(118) Any damage which a person may suffer as a result of unlawful processing should be compensated by the controller or processor, who may be exempted from liability if they prove that they are not responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure.

Amendment

(118) Any damage, **whether pecuniary or not**, which a person may suffer as a result of unlawful processing should be compensated by the controller or processor, who may be exempted from liability **only** if they prove that they are not responsible for the damage, in particular where he establishes **beyond any doubt that the balance of** fault **is** on the part of the data subject or in case of force majeure.

Or. en

Amendment 622

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 119 a (new)

Text proposed by the Commission

Amendment

(119a) Member States should be able to impose criminal sanctions, such as a suspension or temporary revocation of a commercial license for instance, in cases of severe infringements of the provisions of this Regulation, where it concerns manifestly unethical commercial

behaviour towards the data subjects and the exercise of their rights.

Or. en

Amendment 623
Alexander Alvaro

Proposal for a regulation
Recital 120

Text proposed by the Commission

(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences. ***This Regulation should indicate these offences and the upper limit for the related administrative fines, which*** should be fixed in each individual case proportionate to the specific situation, with due regard ***in particular*** to the nature, gravity and duration of the breach. The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.

Amendment

(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences. Administrative fines should be fixed in each individual case proportionate to the specific situation, with due regard to the nature, gravity and duration of the breach, ***the procedures implemented in respect to the contexts of and risks represented by the data processing, the degree of responsibility of the natural or legal person and of previous breaches by this person, the degree of technical and organisational measures and procedures implemented, as well as the degree of co-operation with the supervisory authority.*** The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.

Or. en

Amendment 624
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 120

Text proposed by the Commission

(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences.

This Regulation should indicate these offences and the upper limit for the related administrative fines, which should be fixed in each individual case proportionate to the specific situation, with due regard ***in particular*** to the nature, gravity and duration of the breach. The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.

Amendment

(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences. Administrative fines should be fixed in each individual case proportionate to the specific situation, with due regard to the nature, gravity and duration of the breach, ***the procedures implemented in respect to the contexts of and risks represented by the data processing, the degree of responsibility of the natural or legal person and of previous breaches by this person, the degree of technical and organisational measures and procedures implemented, as well as the degree of cooperation with the supervisory authority***. The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.

Or. en

Amendment 625

Birgit Sippel, Petra Kammerevert, Josef Weidenholzer

Proposal for a regulation

Recital 121

Text proposed by the Commission

(121) ***The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation*** in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in

Amendment

(121) ***Whenever necessary, exemptions or derogations from the requirements of certain provisions of this Regulation for the processing of personal data should be possible*** in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in

particular to processing of personal data in the audiovisual field and in news archives and press libraries. Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. ***Therefore, Member States should classify activities as ‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.***

the audiovisual field and in news archives and press libraries. ***In accordance with the Protocol on the system of public broadcasting in the Member States annexed Treaty on European Union, the Treaties establishing the European Communities and certain related acts, the competence of Member States to define and organize Public Service Broadcasting shall also be respected in the field of data protection.*** Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly.

Or. en

Justification

The phrase ‘solely for journalistic purposes, or the purpose of artistic or literary expression’ is not broad enough and could cause problems for media services handling confidential data needed for their journalistic work whereas the processing itself is not journalistic. Furthermore, we included a link to the Amsterdam Protocol which is very important for Public Service Broadcasting for example in Germany. Being also part of the Lisbon Treaty, the Amsterdam Protocol must be respected also in the field of data protection.

Proposal for a regulation
Recital 121

Text proposed by the Commission

(121) *The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation* in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply *in particular* to processing of personal data in the audiovisual field and in news archives and press libraries. Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. *Therefore, Member States should classify activities as ‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is*

Amendment

(121) *Exemptions or derogations from the requirements of certain provisions of this Regulation for the processing of personal data should be provided for* in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply to processing of personal data *for purposes such as journalism and artistic and literary expression, in particular* in the audiovisual field and in news archives and press libraries. Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly.

used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.

Or. en

Justification

Clarifies that freedom of expression is protected in general, not just for journalists, artists or writers, in the spirit of the rapporteur's amendment 68. To make sure that their current level of protection is not lowered, journalism and artistic and literary expression deserve an explicit mention, in a non-limitative way

Amendment 627

Anna Maria Corazza Bildt

Proposal for a regulation

Recital 121

Text proposed by the Commission

(121) The processing of personal data ***solely*** for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. ***Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries***

Amendment

(121) The processing of personal data for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly ***and take into account technological development and new digital media;***

or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. *Therefore, Member States should classify activities as ‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.*

Or. en

Amendment 628
Dimitrios Droutsas

Proposal for a regulation
Recital 121

Text proposed by the Commission

(121) The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives

Amendment

(121) Whenever necessary, exemptions or derogations from the requirements of certain provisions of this Regulation for the processing of personal data should be possible in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. Therefore, Member

and press libraries. Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. ***Therefore, Member States should classify activities as ‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.***

States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly.

Or. en

Justification

Clarification that freedom of expression is protected in general, not just for journalists, artists or writers. Relates to Article 80(1).

Amendment 629

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 121

(121) *The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation* in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. ***Therefore, Member States should classify activities as ‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.***

(121) ***Whenever necessary, exemptions or derogations from the requirements of certain provisions of this Regulation for the processing of personal data should be possible*** in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. ***Member States competence to define and organize public service broadcasting in accordance with protocol No. 29 to the Treaty of the European Union shall be respected.*** Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly.

Amendment 630

Axel Voss, Seán Kelly, Véronique Mathieu Houillon, Wim van de Camp, Renate Sommer, Georgios Papanikolaou, Lara Comi

Proposal for a regulation**Recital 121***Text proposed by the Commission*

(121) The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries. ***Therefore, Member States should adopt legislative measures, which should lay down exemptions and derogations which are necessary for the purpose of balancing these fundamental rights. Such exemptions and derogations should be adopted by the Member States on general principles, on the rights of the data subject, on controller and processor, on the transfer of data to third countries or international organisations, on the independent supervisory authorities and on co-operation and consistency. This should not, however, lead Member States to lay down exemptions from the other provisions of this Regulation. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly. Therefore, Member States should classify activities as***

Amendment

(121) The processing of personal data solely for journalistic purposes, or for the purposes of artistic or literary expression should qualify for exemption from the requirements of certain provisions of this Regulation in order to reconcile the right to the protection of personal data with the right to freedom of expression, and notably the right to receive and impart information, as guaranteed in particular by Article 11 of the Charter of Fundamental Rights of the European Union. This should apply in particular to processing of personal data in the audiovisual field and in news archives and press libraries.

‘journalistic’ for the purpose of the exemptions and derogations to be laid down under this Regulation if the object of these activities is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them. They should not be limited to media undertakings and may be undertaken for profit-making or for non-profit making purposes.

Or. en

Amendment 631
Cecilia Wikström

Proposal for a regulation
Recital 121 a (new)

Text proposed by the Commission

Amendment

(121a) This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation. Personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Member State legislation to which the public authority or public body is subject. Such legislation should reconcile the right to the protection of personal data with the principle of public access to official documents.

Or. en

Amendment 632
Axel Voss

Proposal for a regulation
Recital 123 a (new)

(123a) The processing of personal data concerning health, as a special category of data, may be necessary for reasons of historical, statistical or scientific research. Therefore this Regulation should ensure that the harmonisation of conditions provided for the processing of personal data concerning health, subject to specific and suitable safeguards so as to protect the fundamental rights and the personal data of individuals, do not act as a barrier to translational, clinical and public health research.

Or. en

Justification

Ensuring seamless access to medical data is crucial for public health research. This Regulation makes it essential to find a balance between protecting individual data and respecting public health researchers enough to provide them with the means to conduct medical research.

Amendment 633

Axel Voss

**Proposal for a regulation
Recital 124**

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context. Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, within the limits of this Regulation, to adopt by law specific rules for the processing of personal data in the employment sector.

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context. Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, within the limits of this Regulation, to adopt by law specific rules for the processing of personal data in the employment sector. ***By virtue of collective agreements (wage agreements, company***

agreements and agreements with committees of senior staff), the provisions of the regulation may be disregarded.

Or. de

Amendment 634

Claude Moraes, Glenis Willmott

Proposal for a regulation

Recital 124

Text proposed by the Commission

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context. Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, ***within the limits of*** this Regulation, to adopt by law specific rules for the processing of personal data in the employment sector.

Amendment

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment ***and the social security*** context. Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, ***in accordance with*** this Regulation, to adopt by law specific rules for the processing of personal data in the employment ***and the social security*** sector.

Or. en

Justification

Similar to the employment context, social security is a highly complex area regulated in many details on the national level. Therefore, Member States should be allowed to adopt or keep specific laws regulating the details of data protection for public institutions in this area

Amendment 635

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation

Recital 124

Text proposed by the Commission

(124) The general principles on the

Amendment

(124) The general principles on the

protection of individuals with regard to the processing of personal data should also be applicable to the employment context.

Therefore, in order to regulate the processing of employees' personal data in the employment context, Member ***States should be able, within the limits of this Regulation, to adopt by law specific rules*** for the processing of personal data in ***the*** employment ***sector***.

protection of individuals with regard to the processing of personal data should also be applicable to the employment context.

Member States should be able to regulate the processing of employees' personal data in the employment context ***in accordance with the rules and minimum standards set out in this Regulation. Where a statutory basis is provided in the Member State in question for the regulation of employment matters by agreement between employee representatives and the management of the undertaking or the controlling undertaking of a group of undertakings (collective agreement) or under Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees,*** the processing of personal data in ***an*** employment ***context should also be regulated by such an agreement, if the rules and minimum standards set out in this Regulation are not undercut.***

Or. en

Amendment 636

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 124

Text proposed by the Commission

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context.

Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, ***within the limits of*** this Regulation, to adopt by law specific rules

Amendment

(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context.

Therefore, in order to regulate the processing of employees' personal data in the employment context, Member States should be able, ***in accordance with*** this Regulation, to adopt by law specific rules

for the processing of personal data in the employment *sector*.

for the processing of personal data in the employment *context*.

Or. en

Amendment 637
Dimitrios Droutsas

Proposal for a regulation
Recital 124 a (new)

Text proposed by the Commission

Amendment

(124a) In Member States where it has been left to the parties on the labour market to regulate wages and other work conditions through collective agreements, social partners' obligations and rights under collective agreements should be taken into specific consideration when applying Article 6(1)f.

Or. en

Amendment 638
Louis Michel

Proposal for a regulation
Recital 124 a (new)

Text proposed by the Commission

Amendment

(124a) The regulation shall be applied in the respect of sport specificity as recognized by Article 165 TFEU, taking into account that due to its societal role sports serves public interests.

Or. en

Amendment 639
Claude Moraes, Glenis Willmott

Proposal for a regulation
Recital 125

Text proposed by the Commission

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials.

Amendment

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials. ***A research ethics committee as mentioned in Article 83 should be consistent with the principles in the World Medical Association's Declaration of Helsinki and any national requirements in Member States and in accordance Union law.***

Or. en

Justification

Along with Article 83(1c)(new) this amendment to Recital 125 would make the article consistent with the WMA Declaration to Helsinki - Ethical Principles for Medical Research involving Human Subjects (2008), which says ethics committees should be independent of the researcher, the sponsor and any other undue influence (future Clinical Trials Regulation).

Amendment 640
Nils Torvalds

Proposal for a regulation
Recital 125

Text proposed by the Commission

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials.

Amendment

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials. ***A research ethics committee as mentioned in Article 83 should be consistent with the principles of the World Medical Association's Declaration of Helsinki and any national requirements in Member States.***

Amendment 641

Anna Hedh, Marita Ulvskog, Christel Schaldemose

Proposal for a regulation

Recital 125

Text proposed by the Commission

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials.

Amendment

(125) The processing of personal data for the purposes of historical, statistical or scientific research should, in order to be lawful, also respect other relevant legislation such as on clinical trials. ***This includes the use of ‘ethics committee’ in accordance with Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use.***

Or. en

Justification

When for practical reasons, for example during register based research it is not possible to receive consent from all data subjects, vetting of research through expert ethics committees is particularly important tool to guarantee that the potential risks for the personal integrity is in proportion to the scientific value and the potential gains of the research.

Amendment 642

Marie-Christine Vergiat

Proposal for a regulation

Recital 125 a (new)

Text proposed by the Commission

Amendment

(125a) Personal data may also be processed subsequently for archive

purposes. In that event, the right to the protection of personal data should be coordinated with the rules on archives, which are the guarantors of the right of peoples to know their own history, and with the rules on public access to administrative information. The Universal Declaration on Archives, adopted at the 36th session of the UNESCO General Conference held in November 2011, stresses that, as reliable sources of information underpinning accountable and transparent administrative actions, archives play a vital role in the development of societies by safeguarding and contributing to individual and community memory. International transfers of personal data must be carried out without prejudice to the rules on the movement of cultural goods and national treasures.

Or. fr

Justification

Il apparaît utile de rappeler la nécessité d'articuler ce règlement avec les réglementations applicables aux archives, garantes de la mémoire collective et individuelle des citoyens européens et dont le rôle essentiel a encore été consacré récemment par l'UNESCO. Par ailleurs et afin d'éviter toute difficulté d'interprétation, il est opportun de préciser que les dispositions sur les transferts internationaux de données à caractère personnel s'appliquent sans préjudice des règles applicables aux biens culturels et aux trésors nationaux, lesquelles prévoient des restrictions à la circulation des archives pour protéger le patrimoine culturel des Etats.

Amendment 643 **Cornelia Ernst**

Proposal for a regulation **Recital 126**

Text proposed by the Commission

(126) Scientific research for the purposes of this Regulation should include fundamental research, applied research,

Amendment

(126) Scientific research for the purposes of this Regulation should include fundamental research, applied research,

and privately funded research and in addition should take into account the Union's objective under Article 179(1) of the Treaty on the Functioning of the European Union of achieving a European Research Area.

and privately funded research *in the meaning of Article 13 of the Charter of Fundamental Rights of the European Union* and in addition should take into account the Union's objective under Article 179(1) of the Treaty on the Functioning of the European Union of achieving a European Research Area.
Opinion and social research form part of scientific research. Market research does not as a rule fall under the notion of scientific research.

Or. en

Amendment 644
Alexandra Thein

Proposal for a regulation
Recital 127

Text proposed by the Commission

(127) *As regards the powers of the supervisory authorities to obtain from the controller or processor access personal data and access to its premises, Member States may adopt by law, within the limits of this Regulation, specific rules* in order to safeguard the professional or other equivalent secrecy obligations, in so far as necessary to reconcile the right to the protection of personal data with an obligation of professional secrecy.

Amendment

(127) ***Member States may adopt by law specific rules regarding the powers of the supervisory authorities and exemptions or derogations from the provisions of Chapters II to IV*** in order to safeguard the professional or other equivalent secrecy obligations, in so far as necessary to reconcile the right to the protection of personal data with an obligation of professional secrecy.

Or. en

Justification

Professional secrecy obligations (e.g. of notaries or tax consultants) must take priority over any data protection rules. This applies not only to the possibility for Member States to adopt different provisions concerning the investigative powers of the supervisory authorities in the case of those who are subject to professional secrecy obligations, as already provided for in Article 84, but also to the latitude to alter substantive data protection provisions if necessary.

Amendment 645

Frank Engel

Proposal for a regulation

Recital 127 a (new)

Text proposed by the Commission

Amendment

(127a) For purposes of legal certainty, this Regulation should not lead to conflicts with sector-specific legislation concerning legal obligations and non-legal requirements and recommendations flowing from such sectorial legislation, for example in health or banking sector.

Or. en

Amendment 646

Jan Mulder

Proposal for a regulation

Recital 127 a (new)

Text proposed by the Commission

Amendment

(127a) The obligation to inform the data subject about the purposes of the processing, the right to erasure, the right to data portability, the right to objection, the obligation to take measures to ensure compliance as well as the prohibition to transfer data to countries outside the Union, should not apply to the processing of information relating to the professional capacity of an individual, such as such individual's employer, job title, function, business address, business phone or fax number, business e-mail address or other organizational details. However, data subjects should have the right to request from the controller not to have such professional information disclosed to third parties.

Or. en

Amendment 647
Sophia in 't Veld

Proposal for a regulation
Recital 128

Text proposed by the Commission

Amendment

(128) This Regulation respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States, as recognised in Article 17 of the Treaty on the Functioning of the European Union. As a consequence, where a church in a Member State applies, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of individuals with regard to the processing of personal data, these existing rules should continue to apply if they are brought in line with this Regulation. Such churches and religious associations should be required to provide for the establishment of a completely independent supervisory authority.

deleted

Or. en

Amendment 648
Josef Weidenholzer

Proposal for a regulation
Recital 128

Text proposed by the Commission

Amendment

(128) This Regulation respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States, as recognised in Article 17 of the Treaty on the Functioning of the European Union. As a consequence, where a church in a Member State applies, at the time of entry

deleted

into force of this Regulation, comprehensive rules relating to the protection of individuals with regard to the processing of personal data, these existing rules should continue to apply if they are brought in line with this Regulation. Such churches and religious associations should be required to provide for the establishment of a completely independent supervisory authority.

Or. en

Amendment 649
Jan Mulder

Proposal for a regulation
Recital 128

Text proposed by the Commission

(128) This Regulation respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States, as recognised in Article 17 of the Treaty on the Functioning of the European Union. As a consequence, where a church in a Member State applies, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of individuals with regard to the processing of personal data, these existing rules should continue to apply if they are brought in line with this Regulation. ***Such churches and religious associations should be required to provide for the establishment of a completely independent supervisory authority.***

Amendment

(128) This Regulation respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States, as recognised in Article 17 of the Treaty on the Functioning of the European Union. As a consequence, where a church in a Member State applies, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of individuals with regard to the processing of personal data, these existing rules should continue to apply if they are brought in line with this Regulation.

Or. en

Justification

There is no reason why churches within the EU would need their own DPAs.

Amendment 650
Csaba Sógor

Proposal for a regulation
Recital 129

Text proposed by the Commission

(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In particular, delegated acts should be adopted *in respect of lawfulness of processing; specifying the criteria and conditions in relation to the consent of a child; processing of special categories of data; specifying the criteria and conditions for manifestly excessive requests and fees for exercising the rights of the data subject; criteria and requirements for the information to the data subject and in relation to the right of access; the right to be forgotten and to erasure; measures based on profiling; criteria and requirements in relation to the responsibility of the controller and to data protection by design and by default; a processor; criteria and requirements for the documentation and the security of processing; criteria and requirements for establishing a personal data breach and for its notification to the supervisory authority, and on the circumstances where a personal data breach is likely to adversely affect the data subject; the criteria and conditions for processing operations requiring a data protection impact assessment; the criteria and requirements for determining a high degree of specific risks which require prior consultation; designation and tasks of the*

Amendment

(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In particular, delegated acts should be adopted specifying the *technical formats for giving consent; specifying conditions of modes based on icons and other graphic features for provision of information; specifying the criteria and conditions for fees for exercising the rights of the data subject; criteria and requirements for the information to the data subject and in relation to the right of access; the right to be forgotten and to erasure; criteria and requirements for verification of the responsibility of the controller; criteria and requirements for establishing a personal data breach and for its notification to the supervisory authority, and on the circumstances where a personal data breach is likely to adversely affect the data subject; the criteria and conditions for processing operations requiring a data protection impact assessment; the criteria and requirements for determining a high degree of specific risks which require prior consultation; codes of conduct; criteria and requirements for certification mechanisms; the adequate level of protection afforded by a third country or an international organisation; administrative sanctions; processing for health purposes; processing*

data protection officer; codes of conduct; criteria and requirements for certification mechanisms; ***criteria and requirements for transfers by way of binding corporate rules; transfer derogations***; administrative sanctions; processing for health purposes; processing in the employment context and processing for historical, statistical and scientific research purposes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

in the employment context and processing for historical, statistical and scientific research purposes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ***and in particular with the European Data Protection Board***. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Or. hu

Justification

Graphic solutions facilitating understanding and clarity may be based on graphic features other than icons. Other possibilities should not be excluded.

Amendment 651

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 129

Text proposed by the Commission

(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In ***particular, delegated acts should be adopted in respect of lawfulness of***

Amendment

(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In ***implementing the provisions of this Regulation, it should be ensured that no***

processing; specifying the criteria and conditions in relation to the consent of a child; processing of special categories of data; specifying the criteria and conditions for manifestly excessive requests and fees for exercising the rights of the data subject; criteria and requirements for the information to the data subject and in relation to the right of access; the right to be forgotten and to erasure; measures based on profiling; criteria and requirements in relation to the responsibility of the controller and to data protection by design and by default; a processor; criteria and requirements for the documentation and the security of processing; criteria and requirements for establishing a personal data breach and for its notification to the supervisory authority, and on the circumstances where a personal data breach is likely to adversely affect the data subject; the criteria and conditions for processing operations requiring a data protection impact assessment; the criteria and requirements for determining a high degree of specific risks which require prior consultation; designation and tasks of the data protection officer; codes of conduct; criteria and requirements for certification mechanisms; criteria and requirements for transfers by way of binding corporate rules; transfer derogations; administrative sanctions; processing for health purposes; processing in the employment context and processing for historical, statistical and scientific research purposes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

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 652
Alexander Alvaro

Proposal for a regulation
Recital 130

Text proposed by the Commission

Amendment

(130) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission for: specifying standard forms in relation to the processing of personal data of a child; standard procedures and forms for exercising the rights of data subjects; standard forms for the information to the data subject; standard forms and procedures in relation to the right of access; the right to data portability; standard forms in relation to the responsibility of the controller to data protection by design and by default and to the documentation; specific requirements for the security of processing; the standard format and the procedures for the notification of a personal data breach to the supervisory authority and the communication of a personal data breach to the data subject; standards and procedures for a data protection impact assessment; forms and procedures for prior authorisation and prior consultation; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning

deleted

mechanisms for control by the Member States of the Commission's exercise of implementing powers. In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.

Or. en

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.

Amendment 653

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 130

Text proposed by the Commission

(130) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission *for: specifying standard forms in relation to the processing of personal data of a child; standard procedures and forms for exercising the rights of data subjects; standard forms for the information to the data subject; standard forms and procedures in relation to the right of access; the right to data portability; standard forms in relation to the responsibility of the controller to data protection by design and by default and to the documentation; specific requirements for the security of processing; the standard format and the procedures for the notification of a personal data breach to the supervisory authority and the communication of a personal data breach to the data subject; standards and procedures for a data protection impact assessment; forms and procedures for*

Amendment

(130) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. *In implementing the provisions of this Regulation, it should 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.*

prior authorisation and prior consultation; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers⁴⁶. In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.

Or. en

Amendment 654
Alexander Alvaro

Proposal for a regulation
Recital 131

Text proposed by the Commission

Amendment

(131) The examination procedure should be used for the adoption of specifying standard forms in relation to the consent of a child; standard procedures and forms for exercising the rights of data subjects; standard forms for the information to the data subject; standard forms and procedures in relation to the right of access; the right to data portability; standard forms in relation to the responsibility of the controller to data protection by design and by default and to the documentation; specific requirements for the security of processing; the standard format and the procedures for **deleted**

the notification of a personal data breach to the supervisory authority and the communication of a personal data breach to the data subject; standards and procedures for a data protection impact assessment; forms and procedures for prior authorisation and prior consultation; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism, given that those acts are of general scope.

Or. en

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.

Amendment 655 Dimitrios Droutsas

Proposal for a regulation Recital 132

Text proposed by the Commission

Amendment

(132) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to a third country or a territory or a processing sector within that third country or an international organisation which does not ensure an adequate level of protection and relating to matters communicated by supervisory authorities under the consistency mechanism, imperative grounds of urgency so require.

deleted

Or. en

Amendment 656

Axel Voss

Proposal for a regulation

Recital 134

Text proposed by the Commission

(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in force.

Amendment

(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in **force. This should be also valid for international agreements or arrangements between the EU or a Member state with a third country especially when Directive 95/46/EC was already in** force.

Or. en

Amendment 657

Dimitrios Droutsas

Proposal for a regulation

Recital 134

Text proposed by the Commission

(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in force.

Amendment

(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in force. **Commission decisions and authorisations by supervisory authorities relating to transfers of personal data to third countries should remain in force for a transition period of two years.**

Or. en

Amendment 658
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 139

Text proposed by the Commission

(139) In view of the fact that, as underlined by the Court of Justice of the European Union, the right to the protection of personal data is not an absolute right, but must be considered in relation to its function in society and be balanced with other fundamental rights, in accordance with the principle of proportionality, this Regulation respects all fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaties, notably the right to respect for private and family life, home and communications, the right to the protection of personal data, the freedom of thought, conscience and religion, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial as well as cultural, religious and linguistic diversity.

Amendment

(139) In view of the fact that, as underlined by the Court of Justice of the European Union, the right to the protection of personal data is not an absolute right, but must be considered in relation to its function in society and ***the actual and potential advances in science, health and technology and*** be balanced with other fundamental rights, in accordance with the principle of proportionality, this Regulation respects all fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaties, notably the right to respect for private and family life, home and communications, the right to the protection of personal data, the freedom of thought, conscience and religion, the freedom of expression and information, the freedom to conduct a business, ***the right to property and in particular the protection of intellectual property*** the right to an effective remedy and to a fair trial as well as cultural, religious and linguistic diversity.

Or. en

Justification

The processing of IP addresses is often a critical component of investigations into IPR abuses under Directive 2004/48/EC and should not be prevented by this Regulation.

Amendment 659
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Paragraph 3 is without prejudice to legislative measures by the Member States which provide for more favourable conditions for data subjects with regard to the protection of their data, in particular for the purposes of Articles 80 and 84.

Or. en

Amendment 660
Salvatore Iacolino

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

1. This Regulation applies – ***without any discrimination over the methods used*** – to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Or. it

Justification

The need to protect data is regardless of the method used for the processing of that data and should be neutral in relation to present and future processing technologies.

Amendment 661
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Amendment

1. This Regulation applies to the processing of personal data wholly or partly by automated means, ***without discrimination between such processing means***, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Or. en

Amendment 662
Monika Hohlmeier

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

Text proposed by the Commission

Amendment

(aa) by courts, public prosecutions departments and institutions enforcing judicial decisions by executing sentences and carrying out punishments.

Or. de

Justification

The activities of the courts and bailiffs in enforcing the law should be exempted from the application of the proposed provisions insofar as possible.

Amendment 663
Frank Engel

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

Text proposed by the Commission

Amendment

If the provisions of this Regulation conflict with a provision of another Union act governing specific aspects of

processing of personal data in specific sectors, the provision of the other Union act shall prevail and shall apply to those specific sectors.

Or. en

Amendment 664
Philippe Juvin

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

Text proposed by the Commission

Amendment

(aa) which were collected prior to the entry into force of this Regulation, as referred to in Article 91;

Or. fr

Amendment 665
Philippe Juvin

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

Text proposed by the Commission

Amendment

(ab) which began prior to the entry into force of this Regulation, as referred to in Article 91;

Or. fr

Amendment 666
Sophia in 't Veld

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

Text proposed by the Commission

Amendment

***(b) by the Union institutions, bodies,
offices and agencies;*** ***deleted***

Or. en

Amendment 667
Alexander Alvaro

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

Text proposed by the Commission

Amendment

***(b) by the Union institutions, bodies,
offices and agencies;*** ***deleted***

Or. en

Justification

This regulation shall also apply for Union institutions, bodies, offices and agencies.

Amendment 668
Axel Voss

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

Text proposed by the Commission

Amendment

***(b) by the Union institutions, bodies,
offices and agencies;*** ***deleted***

Or. en

Justification

The rules should also apply to union bodies, offices and agencies.

Amendment 669
Birgit Sippel, Josef Weidenholzer

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

Text proposed by the Commission

Amendment

***(b) by the Union institutions, bodies,
offices and agencies;*** ***deleted***

Or. en

Justification

A comprehensive approach to data protection also means to include the Union institutions, bodies, offices and agencies in the scope of the regulation.

Amendment 670
Agustín Díaz de Mera García Consuegra

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

Text proposed by the Commission

Amendment

***(b) by the Union institutions, bodies,
offices and agencies;*** ***deleted***

Or. es

Justification

The Union institutions and bodies should not remain entirely outside the scope of the Regulation. If the aim of this instrument is to establish, on a uniform basis throughout the Union, core principles and guarantees in relation to the processing of personal data, the exclusion of the European institutions fuels the notion, at least formally, that there are two separate legal systems: of the Member States and of the Union

Amendment 671
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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

Text proposed by the Commission

Amendment

(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 of the Treaty on European Union;

(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 of ***Title V*** of the Treaty on European Union;

Or. es

Amendment 672
Alexander Alvaro

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

Text proposed by the Commission

Amendment

(d) by a natural person without any gainful interest in the course of its own exclusively personal or household activity;

(d) by a natural person without any gainful interest, ***who does not make the data accessible to an indefinite number of people*** in the course of its own exclusively personal or household activity;

Or. en

Justification

In line with ECJ cases C-101/01 and C-73/07.

Amendment 673
Nils Torvalds

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

Text proposed by the Commission

Amendment

(d) by a natural person ***without any gainful interest*** in the course of its own exclusively personal or household activity;

(d) by a natural person in the course of its own exclusively personal or household activity;

Or. en

Amendment 674

Axel Voss

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) by a natural person ***without any gainful interest in the course of its own exclusively personal or household activity;***

Amendment

(d) by a natural person ***for a purpose which cannot be attributed either to his trade or to his self-employed professional activity;***

Or. de

Amendment 675

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) by a natural person without any gainful interest in the course of its own exclusively personal or household activity;

Amendment

(d) by a natural person without any gainful interest, ***who does not make the data accessible to an indefinite number of people*** in the course of its own exclusively personal or household activity;

Or. en

Amendment 676

Françoise Castex

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) by a natural person without any gainful interest in the course of its own exclusively personal or household activity;

Amendment

(d) by a natural person without any gainful interest in the course of its own exclusively personal or household activity, ***unless personal data of other natural persons is***

made accessible to an indefinite number of individuals;

Or. en

Justification

By default the personal data should be made accessible to an indefinite number of individuals.

Amendment 677

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) by a natural person *without any gainful* interest in the course of its own exclusively *personal* or household *activity*;

Amendment

(d) by a natural person interest in the course of its own exclusively *private* or household *activities unless personal data is published. Further processing of such personal data for other purposes must be based on the data subjects' consent. The exemption should not apply where the processing of personal data is done in pursuit of a professional or commercial objective. The rights of third parties have especially to be taken into account with usage of sensible data;*

Or. en

Justification

This amendment introduces a limitation of the household exemption. Even with the use of data for private or family purposes certain privacy principles and standards should apply.

Amendment 678

Axel Voss

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(da) by small enterprises in the course of its own exclusively activity and strict and exclusively internal use.

Or. en

Amendment 679

Markus Pieper, Markus Ferber

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(da) to micro companies according to the Commission Recommendation 2003/361 and in the course of their own activity and for data which is strictly and exclusively for their internal use;

Or. en

Amendment 680

Cornelia Ernst

Proposal for a regulation

Article 2 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

(e) by competent **public** authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

Or. en

Amendment 681

Dimitrios Droutsas

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

Text proposed by the Commission

(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

Amendment

(e) by competent **public** authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

Or. en

Amendment 682
Monika Hohlmeier

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

Text proposed by the Commission

(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

Amendment

Does not affect the English version.

Or. de

Justification

Linguistic clarification

Amendment 683
Alexander Alvaro

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

Text proposed by the Commission

Amendment

(ea) that has been anonymised.

Justification

This Regulation shall not apply to the processing of anonymised data (see definition under Article 4).

Amendment 684

Axel Voss

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) for historical, statistical and scientific research purposes;

Or. en

Amendment 685

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) made by the employer as part of the treatment of employee personal data in the employment context

Or. en

Amendment 686

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) which have been rendered anonymous within the meaning of Article 4(2c);

Or. en

Amendment 687
Sarah Ludford

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

Text proposed by the Commission

Amendment

(ea) that has been rendered anonymous;

Or. en

Justification

Anonymous data should also be outside the scope of the Regulation.

Amendment 688
Louis Michel

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

Text proposed by the Commission

Amendment

(ea) by sport organisations for the purposes of prevention, detection and investigation of any violations of sports integrity linked with match fixing and doping;

Or. en

Amendment 689

Bernd Lange

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) in the course of an activity which can be attributed to the professional or a commercial activity of a data subject;

Or. en

Amendment 690

Monika Hohlmeier, Axel Voss

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) by churches and religious associations or communities;

Or. de

Justification

If churches and religious communities are clearly exempted from data processing rules, this will take better account of the requirements of Article 17 TFEU than the mere transitional provision laid down in Article 84 for the existing data protection law applicable to churches and religious associations.

Amendment 691

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) by competent authorities for the purposes of producing and disseminating

the official statistics entrusted to them;

Or. es

Amendment 692

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) natural person pursuing economic activity, which identifies this person on the market;

Or. en

Amendment 693

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Article 2 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) of a natural person which data are made public in the course of exercising professional duties such as name, contact details and function;

Or. en

Amendment 694

Axel Voss

Proposal for a regulation

Article 2 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) made by the employer as part of the treatment of employee personal data in

the employment context;

Or. en

Amendment 695

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

Article 2 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) by competent authorities for the purposes of drawing up electoral rolls.

Or. es

Amendment 696

Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier

Proposal for a regulation

Article 2 – paragraph 2 – point e c (new)

Text proposed by the Commission

Amendment

(ec) which have been rendered anonymous;

Or. en

Amendment 697

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If the separate provisions of the European Union or the Member States law provide for more advanced protection of personal data than provided by this

Regulation, these provisions shall be implemented complementarily. This applies in particular to the secrecy protected by law, e.g. bank secrecy.

Or. en

Amendment 698

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Article 2 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The information disclosed in accordance with the law in national registers of economic entities is not protected under this Regulation to the extent that it identifies entities on the market.

Or. en

Amendment 699

Sari Essayah

Proposal for a regulation

Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Articles 7(4), 15(1)(e), 17, 18, 22(c) and (e), 33, 35, 36, 37 and 79(4), (5), (6) and (7) of this Regulation shall not be applicable to the processing of personal data carried out by public authorities.

Or. en

Justification

The Regulation's very detailed and strict rules have negative consequences when it comes to public authorities. Most of the processing carried out by public authorities is exclusively

national and data processing is primary done as part of activities only provided and carried out by public authorities such as the payment of social benefits, and never with the intends to make profit. It is therefore proposed that the regulation does not apply to public authorities' processing of data.

Amendment 700
Alexander Alvaro

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union.

Amendment

1. This Regulation applies to the processing of personal data ***of data subjects residing in the Union*** in the context of the activities of an establishment of a controller or a processor in the Union.

Or. en

Justification

Data controllers based in the EU processing solely non-European data in third countries should be excluded from the scope of the regulation to allow them to compete on markets outside the EU with data controllers not falling under the scope of this Regulation.

Amendment 701
Axel Voss

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union.

Amendment

1. This Regulation applies to the processing of personal data ***of data subjects residing in the Union*** in the context of the activities of an establishment of a controller or a processor in the Union.

Or. en

Justification

The aim of this Regulation is to protect personal data of data subjects, residing in the EU. For personal data without European relevance (meaning: processing of personal data of data subjects residing outside the EU), this amendment is important to put on equal footing EU and non EU companies.

Amendment 702 **Monika Hohlmeier**

Proposal for a regulation **Article 3 – paragraph 1**

Text proposed by the Commission

1. This Regulation applies to the processing of personal data ***in the context of the activities of an establishment of a controller or a processor*** in the Union.

Amendment

1. This Regulation applies to the processing of personal data in the Union ***or in a place where the national law of a Member State applies by virtue of international law.***

Or. de

Amendment 703 **Adina-Ioana Vălean, Jens Rohde**

Proposal for a regulation **Article 3 – paragraph 1**

Text proposed by the Commission

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union.

Amendment

1. This Regulation applies to the processing of personal data ***of data subjects residing in the Union*** in the context of the activities of an establishment of a controller or a processor in the Union.

Or. en

Amendment 704 **Alexander Alvaro**

Proposal for a regulation
Article 3 – paragraph 2

Text proposed by the Commission

2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller not established in the Union, **where the processing activities are related to:**

(a) the offering of goods or services to such data subjects in the Union; or

(b) the monitoring of their behaviour.

Amendment

2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller **or a processor** not established in the Union.

Or. en

Amendment 705
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. This Regulation applies **to** the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to:

Amendment

2. This Regulation applies **as far as legally possible and is compatible with the legal system of a third country**, the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to:

Or. en

Amendment 706
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 3 – paragraph 2

Text proposed by the Commission

2. This Regulation applies to the

Amendment

2. This Regulation applies to the

processing of personal data of data subjects residing in the Union by a controller not established in the Union, ***where the processing activities are related to:***

- (a) the offering of goods or services to such data subjects in the Union; or***
- (b) the monitoring of their behaviour.***

processing of personal data of data subjects residing in the Union by a controller ***or a processor*** not established in the Union.

Or. en

Amendment 707

Axel Voss

Proposal for a regulation

Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) the offering of goods ***or*** services to such data subjects in the Union; or

Amendment

(a) the offering of goods *and* services ***in the Union*** to such data subjects, ***including services provided without financial costs to the individual***; or

Or. en

Amendment 708

Alexander Alvaro

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

Amendment

deleted

Or. en

Justification

This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller or a processor not established in the Union.

Amendment 709

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

deleted

Or. en

Amendment 710

Axel Voss

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

3. This Regulation applies to the processing of personal data by a controller ***which is*** not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

Or. en

Amendment 711

Ewald Stadler

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

Amendment

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law. ***This shall be without prejudice to national provisions to which the controller is subject.***

Or. de

Amendment 712
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

deleted

Or. en

Justification

Moved to definition of personal data

Amendment 713
Petru Constantin Luhan

Proposal for a regulation

Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person **and who is not acting in his/her professional capacity**;

Or. en

Amendment 714

Sophia in 't Veld

Proposal for a regulation

Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification **number**, location data, online **identifier** or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural **or social** identity of that person;

Amendment

(1) ‘data subject’ means an identified natural person or a natural person who can be identified **or singled out**, directly or indirectly, **alone or in combination with associated data**, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to **a unique identifier**, an identification **code**, location data, online **identifiers** or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, **social or gender** identity **or sexual orientation** of that person;

Or. en

Amendment 715
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, ***working together with the controller***, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person ***and who is not acting in his/her professional capacity***;

Or. en

Justification

The means used to identify should be in direct relation to the data controller and his contractual partners. Some particular situations might be difficult to assess as a sole trader (plumber, doctor) working freelance and using the same phone line for business and private purposes blurs the boundaries between natural and legal persons. The Regulation should be applicable only to natural persons not acting in their professional capacity.

Amendment 716
Louis Michel

Proposal for a regulation
Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller ***or by any other natural or legal person***, in particular by reference to an

Amendment

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller, in particular by reference to an identification number or to one or more

identification number, **location data, online identifier** or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person. ***A natural person shall not be considered identifiable if identification requires a disproportionate amount of time, effort or material resources;***

Or. en

Amendment 717

Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Lara Comi, Monika Hohlmeier

Proposal for a regulation

Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person ***working together with the controller***, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person ***and who is not acting in his/her professional capacity***;

Or. en

Justification

Taken from ITRE Opinion. Amendment clarifies that in order to be able to identify a data subject, a relation with the controller has to be assumed. Data that are used in the function of a professional capacity should not be defined as personal data.

Amendment 718

Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified natural person **or a natural person** who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, **in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;**

Amendment

(1) ‘data subject’ means an identified **or identifiable** natural person who can be identified, directly or indirectly, by **technically available** means reasonably likely to be used by the controller or by any other natural or legal person, **where the use of such means does not entail excessive costs, is not overly time-consuming and does not require complex actions to be taken;**

Or. pl

Amendment 719
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘data subject’ means an identified **natural person or a natural person** who can be identified, directly or indirectly, by means reasonably **likely** to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

(1) ‘data subject’ means an identified **individual or household or an individual** who can be identified **or singled out**, directly or indirectly, by means reasonably **possible** to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person **or household;**

Or. en

Justification

Limitation of the household exemption

Amendment 720

Ewald Stadler

Proposal for a regulation

Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) 'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means ***reasonably likely to be used by the controller or by any other natural or legal person***, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Amendment

(1) 'data subject' means an identified natural person or a natural person who can be ***unequivocally*** identified, directly or indirectly, by means ***available to*** the controller, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

Or. de

Amendment 721

Csaba Sógor

Proposal for a regulation

Article 4 – paragraph 1 – point 1

Text proposed by the Commission

(1) 'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to ***an identification number***, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural ***or*** social identity of that person;

Amendment

(1) 'data subject' means an identified natural person or a natural person who can be identified ***or singled out***, directly or indirectly, ***alone or in combination with associated data***, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to ***a unique identifier***, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, social ***or gender*** identity ***or sexual orientation*** of that person;

Or. hu

Justification

National identity is a specific issue which embodies more than just the question of residence.

Amendment 722
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘personal data’ **means** any information relating to **a** data subject;

Amendment

(2) ‘personal data’ **shall mean** any information relating to **an identified or identifiable natural person** (‘data subject’); **an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to the person’s physical, physiological, genetic, mental, economic, cultural or social identity** (‘personal identifiers’);

Or. en

Justification

Definition as stated in Directive 95/46.

Amendment 723
Monika Hohlmeier

Proposal for a regulation
Article 4 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘personal data’ means any information relating to a data subject;

Amendment

(2) ‘personal data’ means any information relating to a **particular or identifiable natural person** (data subject); **a person shall be regarded as identifiable if he can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to the physical,**

physiological, mental, economic, cultural or social identity of that person;

Or. de

Justification

From 95/46/EC.

Amendment 724

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘personal data’ means any **information** relating to a data subject;

Amendment

(2) ‘personal data’ means any **data specifically** relating to a data subject **whose specific identity can be identified, directly or indirectly by the controller or by any other natural or legal person, working together with the controller;**

Or. en

Amendment 725

Louis Michel

Proposal for a regulation

Article 4 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘personal data’ means any information relating to a data subject;

Amendment

(2) ‘personal data’ means any information relating to a data subject **where this information is identifiable as concerning the data subject; information which does not allow for identification of a data subject and information which would not allow for such identification without a disproportionate amount of time, effort or material resources shall not be considered as personal data;**

Amendment 726
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘pseudonymised data’ means personal data where personal identifiers have been removed, but where the link to these personal identifiers is still maintained so the data can be attributed to a data subject by anyone who has access to the linking codes;

Or. en

Justification

Pseudonymised data are introduced as a form of personal data, introducing different sets of rules connected to it throughout the Regulation.

Amendment 727
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 4 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘identification number’ means any numeric, alphanumeric or similar code typically used in the online space, excluding codes assigned by a public or state controlled authority to identify a natural person as an individual;

Or. en

Amendment 728
Dimitrios Droutsas

Proposal for a regulation
Article 4 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘pseudonym’ means a unique identifier which is specific to one given context and which does not permit the direct identification of a natural person, but allows the singling out of a data subject;

Or. en

Amendment 729
Sarah Ludford

Proposal for a regulation
Article 4 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘pseudonymised data’ means any personal data that has been altered so that it cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non-attribution;

Or. en

Justification

A definition of ‘pseudonymised data’ is necessary.

Amendment 730
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier, Georgios Papanikolaou, Anna Maria Corazza Bildt

Proposal for a regulation
Article 4 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘pseudonymous data’ means any personal data that has been collected, altered or otherwise processed so that it of itself cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non attribution, or that such attribution would require a disproportionate amount of time, expense and effort;

Or. en

Justification

Taken from ITRE and IMCO Opinion. This is part of a package of amendments enabling the use of pseudonymous and anonymous data and will encourage good business practice safeguarding the interests of data subjects. Ensuring that personal data cannot be attributed to a data subject (since it cannot be related back to a data subject without use of additional data) helps to further promote business use of data while providing a high level of consumer protection.

Amendment 731
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 2 b (new)

Text proposed by the Commission

Amendment

(2b) ‘anonymised data’ means data, which is impossible to be attributed to a data subject in any manner because all references to personal identifiers have been removed permanently and completely; therefore anonymised data is not subject to this Regulation;

Or. en

Justification

If the Regulation refers to anonymised data it should define it as well.

Amendment 732

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 2 b (new)

Text proposed by the Commission

Amendment

(2b) ‘pseudonymous data’ means any personal data that has been collected, altered or otherwise processed so that it of itself cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non-attribution;

Or. en

Amendment 733

Sarah Ludford

Proposal for a regulation

Article 4 – paragraph 1 – point 2 b (new)

Text proposed by the Commission

Amendment

(2b) ‘anonymised data’ or ‘data rendered anonymous’ means personal data that has been modified in a way that the information can no longer be attributed to an identifiable natural person;

Or. en

Justification

There needs to be a definition of ‘anonymised data’.

Amendment 734

Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier, Georgios Papanikolaou, Anna Maria Corazza Bildt

Proposal for a regulation

Article 4 – paragraph 1 – point 2 b (new)

Text proposed by the Commission

Amendment

(2b) ‘anonymous data’ means any personal data that has been collected, altered or otherwise processed in such a way that it can no longer be attributed to a data subject; anonymous data shall not be considered personal data;

Or. en

Justification

Taken from ITRE and IMCO Opinion.

Amendment 735

Alexander Alvaro

Proposal for a regulation

Article 4 – paragraph 1 – point 2 c (new)

Text proposed by the Commission

Amendment

(2c) ‘encrypted data’ means personal data, which through technological protection measures is rendered unintelligible to any person who is not authorised to access it;

Or. en

Justification

If the Regulation refers to encrypted data it should define it as well.

Amendment 736

Axel Voss

Proposal for a regulation

Article 4 – paragraph 1 – point 2 c (new)

Text proposed by the Commission

Amendment

(2c) ‘identification number’ means any numeric, alphanumeric or similar code typically used in the online space, excluding codes assigned by a public or state controlled authority to identify a natural person as an individual;

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 737

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 2 c (new)

Text proposed by the Commission

Amendment

(2c) ‘anonymous data’ means any personal data that has been collected, altered or otherwise processed in such a way that it can no longer be attributed to a data subject;

Or. en

Amendment 738

Alexander Alvaro

Proposal for a regulation

Article 4 – paragraph 1 – point 2 d (new)

Text proposed by the Commission

Amendment

(2d) ‘profiling’ means the aggregation, classification and recording of

information based on a data subject's personal data or pseudonymised data aiming to analyse behavioural patterns of the individual data subject;

Or. en

Justification

If the Regulation refers to profiling it should define it as well.

Amendment 739

Ewald Stadler

Proposal for a regulation

Article 4 – paragraph 1 – point 3

Text proposed by the Commission

(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;

Amendment

(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure, **blocking** or destruction;

Or. de

Amendment 740

Cornelia Ernst

Proposal for a regulation

Article 4 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) 'Profiling' means any form of automated processing of personal data intended to evaluate certain personal

aspects relating to a natural person or to analyze or to predict in particular that natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour;

Or. en

Amendment 741
Dimitrios Droutsas

Proposal for a regulation
Article 4 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) 'profiling' means any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person or to analyse or predict in particular that natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour;

Or. en

Amendment 742
Marie-Christine Vergiat, Cornelia Ernst

Proposal for a regulation
Article 4 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) 'profiling' means any kind of automated processing of personal data carried out in order to assess certain characteristics specific to a natural person or to analyse or predict, in particular, his or her professional performance, economic situation, location, state of health, personal preferences, reliability or

conduct, and/or in order to tailor a service which is provided or a decision which is applied to a person, and which may also involve processing to determine to what category or categories a person belongs;

Or. fr

Amendment 743
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point 3 b (new)

Text proposed by the Commission

Amendment

(3b) ‘biometric data’ means any data concerning the unique physical, physiological or behavioural characteristics of an individual, for example images of the face or dactyloscopic data;

Or. fr

Amendment 744
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, **conditions** and means of the processing of personal data; where the purposes, **conditions** and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Justification

Definition as stated in Directive 95/46.

Amendment 745

Stanimir Ilchev

Proposal for a regulation

Article 4 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, conditions and means of the processing of personal data; where the purposes, conditions and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Amendment

(5) 'controller' means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, conditions and means of the processing of personal data; where the purposes, conditions and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law; ***controllers include in particular:***

Or. de

Justification

It seems helpful to distinguish among ‘controllers’, as this will make it possible to impose special requirements in some cases. The direct and indirect controllers inserted below fall under the overall concept of ‘controller’. They are therefore subject to the general requirements of this regulation insofar as nothing more specific is laid down.

Amendment 746

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, ***conditions and means*** of the processing of personal data; where the purposes, ***conditions and means*** of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Amendment

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Or. en

Justification

The definition of controller should be based on the decision of the purposes for which personal data are processed rather than the conditions or means by which this is achieved. The control over the purpose for processing is the logical basis for allocating different responsibilities between controllers who are responsible for what and why data is processed and processing parties who deal with how data is processed.

Amendment 747

Louis Michel

Proposal for a regulation

Article 4 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, ***conditions and means*** of the processing of personal data; where the purposes, ***conditions and means*** of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Amendment

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Or. en

Amendment 748

Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation

Article 4 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, ***conditions and means*** of the processing of personal data; where the purposes, ***conditions and means*** of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Amendment

(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

Or. en

Justification

Taken from ITRE-Opinion. The aim of the change is not to lower the level of protection for the individual but to clarify that only the controller and not the processor is responsible. See related Amendments to articles 22,24,26 and 77.

Amendment 749

Stanimir Ilchev

Proposal for a regulation

Article 4 – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

(5a) ‘direct controller’ means a person who collects personal data from the data subject or otherwise processes it;

Or. de

Amendment 750
Stanimir Ilchev

Proposal for a regulation
Article 4 – paragraph 1 – point 5 b (new)

Text proposed by the Commission

Amendment

(5b) ‘indirect controller’ means a person who does not collect personal data from the data subject or otherwise process it.

Or. de

Amendment 751
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) ‘publisher’ means any natural or legal person, a public authority, a service or any other body which creates automated data processing systems or data files intended to be used in the processing of personal data by controllers and processors, including the equipment used by the person concerned;

Or. fr

Amendment 752
Carmen Romero López

Proposal for a regulation
Article 4 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) ‘data protection by design’ means data protection embedded within the entire life cycle of the technology, from the very early design stage, right through

to its ultimate deployment, use and final disposal;

Or. es

Justification

A definition of data protection by design is being proposed as this concept is referred to in the Regulation.

Amendment 753
Carmen Romero López

Proposal for a regulation
Article 4 – paragraph 1 – point 6 b (new)

Text proposed by the Commission

Amendment

(6b) ‘data protection by default’ means configuration of the privacy settings on services and products so that these comply with the general principles of data protection, such as transparency, data minimisation, purpose limitation, integrity, storage minimisation, intervention possibility and accountability.

Or. es

Justification

A definition of data protection by default is being proposed as this concept is referred to in the Regulation.

Amendment 754
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘third party’ means any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;

Or. en

Justification

Definition as stated in Directive 95/46.

Amendment 755

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘third party’ means any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;

Or. en

Amendment 756

Alexander Alvaro

Proposal for a regulation

Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed; ***by ‘clear affirmative action’ is meant any unequivocal action that is the result of choice and that implies, for its complete execution, a necessary data processing;***

Or. en

Justification

The term ‘clear affirmative action’ is too vague and needs to be further specified.

Amendment 757

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed and ***explicit*** indication of his or her wishes by which the data subject, ***either by a statement or by a clear affirmative action***, signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific, informed and ***unambiguous*** indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed;

Or. en

Amendment 758

Louis Michel

Proposal for a regulation

Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed **and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action**, signifies agreement to **personal data relating to them being processed**;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific **and** informed **expression of will, either by a statement, an action or a specific conduct**, which, **in view of the context and circumstances at the time consent is required**, signifies **the data subject’s agreement to the processing of the personal data**;

Or. en

Amendment 759
Josef Weidenholzer

Proposal for a regulation
Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, **either by a statement or by a clear affirmative action, signifies** agreement to **personal data relating to them being processed**;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes **- prior declaration of will (‘voluntatis declaratio’)** - by which the data subject **signifies his or her specific, informed and unambiguous agreement to the processing of personal data**;

Or. en

Amendment 760
Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed **and explicit** indication of his or her wishes by which the data subject, either by a statement or by

Amendment

(8) ‘the data subject’s consent’ means any freely given specific **and** informed indication of his or her wishes by which the data subject, either by a statement or by

a clear affirmative action, signifies agreement to personal data relating to them being processed;

a clear affirmative action, signifies agreement to personal data relating to them being processed. *The permission of the data subject may also be sought electronically, particularly in the context of information society services;*

Or. pl

Amendment 761
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject's consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed *with a view to achieving a specific objective or several compatible and inseparable objectives;*

Or. fr

Amendment 762
Sarah Ludford, Charles Tannock

Proposal for a regulation
Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, ***informed and explicit*** indication of his or her wishes by which the data subject, ***either by a statement or by a clear affirmative action,*** signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific ***and informed*** indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed;

Justification

Requiring consent to be freely given, specific and informed provides sufficient protection for the data subject. It is unclear what the requirement for the data subject to signify agreement by a 'statement' or 'clear affirmative action' means in practice.

Amendment 763

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation**Article 4 – paragraph 1 – point 8***Text proposed by the Commission*

(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment

(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed ***for one or more specific purposes***;

Or. en

Amendment 764

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation**Article 4 – paragraph 1 – point 8***Text proposed by the Commission*

(8) 'the data subject's consent' means any freely given specific, informed ***and explicit*** indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment

(8) 'the data subject's consent' means any freely given, specific ***and*** informed, ***contract or*** indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment 765

Axel Voss, Seán Kelly, Wim van de Camp, Hubert Pirker, Monika Hohlmeier, Georgios Papanikolaou, Véronique Mathieu Houillon, Anna Maria Corazza Bildt

Proposal for a regulation

Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed and **explicit** indication of his or her wishes by which the data subject, **either by a statement or by a clear affirmative action**, signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific, informed and **unambiguous** indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed; ***Silence or inactivity does not in itself indicate acceptance;***

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 766

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

Article 4 – paragraph 1 – point 8

Text proposed by the Commission

(8) ‘the data subject’s consent’ means any freely given specific, informed **and explicit** indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Amendment

(8) ‘the data subject’s consent’ means any freely given specific **and** informed indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;

Or. es

Amendment 767
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘personal data breach’ means **a breach of security leading to** the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment

(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Or. en

Justification

There is no convincing reason to determine that a ‘personal data breach’ implies a breach of security as prerequisite.

Amendment 768
Jan Mulder

Proposal for a regulation
Article 4 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘personal data breach’ means a breach **of security** leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment

(9) ‘personal data breach’ means a breach leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Or. en

Justification

The main goal of this regulation is to protect individuals therefore a narrower definition of personal data breach is needed.

Amendment 769
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 4 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘personal data breach’ means ***a breach of security leading to*** the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment

(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Or. en

Amendment 770
Louis Michel

Proposal for a regulation
Article 4 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment

(9) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed ***when such personal data has not been rendered unintelligible to any person who is not authorized to access it and where such a breach causes or is likely to cause a significant adverse effect on the privacy of the data subject;***

Or. en

Amendment 771
Jacek Protasiewicz, Rafał Trzaskowski

Proposal for a regulation
Article 4 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘personal data breach’ means ***a breach of security leading to*** the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment

(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Or. en

Amendment 772
Petru Constantin Luhan

Proposal for a regulation
Article 4 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘genetic data’ means ***all data, of whatever type, concerning the characteristics*** of an ***individual which are inherited or acquired during early prenatal development***;

Amendment

(10) ‘genetic data’ means ***information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis***;

Or. en

Justification

The proposed definition of ‘genetic data’ in the Proposed Regulation should be brought in line with definitions used elsewhere, such as the definition of ‘human genetic data’ used in the United Nations International Declaration on Human Genetic Data. The amendment is consistent with the Council Presidency’s proposed changes released on 22 June 2012.

Amendment 773
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘genetic data’ means all data, ***of whatever type, concerning the***

Amendment

(10) ‘genetic data’ means all ***personal*** data, ***relating to the genetic*** characteristics of an

characteristics of an individual which **are** inherited or acquired during early prenatal development;

individual which **have been** inherited or acquired during early prenatal development **as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained;**

Or. en

Justification

Necessary specification of what can be understood under this definition.

Amendment 774

Axel Voss

Proposal for a regulation

Article 4 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘genetic data’ means ***all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;***

Amendment

(10) ‘genetic data’ means ***information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;***

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 775

Claude Moraes, Glenis Willmott

Proposal for a regulation

Article 4 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) ‘genetic data’ means ***all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;***

(10) ‘genetic data’ means ***information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person;***

Or. en

Justification

Not all ‘genetic data’ contain sufficient information to identify an individual. The proposed definition of ‘genetic data’ should therefore be clarified to ensure that it only relates to ‘personal data’. The definition should also be amended to relate specifically to information obtained by the analysis of nucleic acids to make it consistent with other widely used definitions. This amendment is consistent with the Council Presidency’s proposed changes released on 22 June 2012.

Amendment 776

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) ‘genetic data’ means ***all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;***

(10) ‘genetic data’ means ***information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;***

Or. en

Justification

The proposed definition should be in line with definitions used elsewhere, such as the definition of ‘human genetic data’ used in the United Nations International Declaration on Human Genetic Data.

Amendment 777

Ewald Stadler

Proposal for a regulation

Article 4 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘genetic data’ means ***all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development,***

Amendment

(10) ‘genetic data’ means data ***obtained by means of genetic testing or genetic analysis performed in connection with genetic testing regarding genetic characteristics. Genetic characteristics are hereditary information of human origin which is inherited or acquired during conception or up until birth;***

Or. de

Amendment 778

Alexander Alvaro

Proposal for a regulation

Article 4 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Amendment

(11) ‘biometric data’ means any ***personal*** data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Or. en

Justification

Linguistic clarification.

Amendment 779

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Amendment

(11) ‘biometric data’ means any **personal** data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Or. en

Amendment 780

Ewald Stadler

Proposal for a regulation

Article 4 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Amendment

(11) 'biometric data' means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data, **but not signatures**;

Or. de

Amendment 781

Claude Moraes, Glenis Willmott

Proposal for a regulation

Article 4 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘data concerning health’ means any information which relates to the physical or mental health of an individual, or to the provision of health services to the individual;

Amendment

(12) ‘data concerning health’ means any **personal** information which relates to the physical or mental health of an individual, or to the provision of health services to the individual;

Or. en

Amendment 782

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘data concerning health’ means **any information** which relates to the physical or mental health of an individual, or to the provision of health services to the individual;

Amendment

(12) ‘data concerning health’ means **personal data** which relates to the physical or mental health of an individual, or to the provision of health services to the individual;

Or. en

Amendment 783

Louis Michel

Proposal for a regulation

Article 4 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘data concerning health’ means any information which relates to the physical or mental health of an **individual, or to the provision of health services to the** individual;

Amendment

(12) ‘data concerning health’ means any information which **directly** relates to the physical or mental health of an individual;

Or. en

Amendment 784

Sophia in 't Veld

Proposal for a regulation

Article 4 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as

Amendment

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as

to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;

to the purposes, conditions and means of the processing of personal data are taken; ***the location of the controller’s headquarters is given priority in cases where it is not clear where the main decisions as to the purposes, conditions and means of the processing are taken;*** if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;

Or. en

Justification

Similar to the arrangements on Binding Corporate Rules.

Amendment 785 **Alexander Alvaro**

Proposal for a regulation **Article 4 – paragraph 1 – point 13**

Text proposed by the Commission

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central

Amendment

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central

administration in the Union;

administration in the Union, *and if it has no central administration in the Union the main establishment is the place where the main processing activities take place. As regard to any natural or legal person, public authority, agency or any other body which acts both as a controller and as a processor, ‘main establishment’ means the place where it is determined to have its main establishment in its capacity of controller;*

Or. en

Justification

Necessity to specify further how to determine the main establishment is met with this amendment.

Amendment 786

Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Lara Comi, Monika Hohlmeier, Georgios Papanikolaou

Proposal for a regulation

Article 4 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘main establishment’ means *as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;*

Amendment

(13) ‘main establishment’ means *the location as determined by the data controller or data processor on the basis of the following transparent and objective criteria: the location of the group’s European headquarters, or, the location of the company within the group with delegated data protection responsibilities, or, the location of the company which is best placed (in terms of management function, administrative capability etc) to address and enforce the rules as set out in this Regulation, or, the place where the main decisions as to the purposes of processing are taken for the regional group;*

Or. en

Justification

Taken from ITRE-Opinion. The criteria are used to determine the appropriate DPA for BCRs and therefore are proven to be implementable.

Amendment 787

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 4 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;

Amendment

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. ***In order to determine main processing activities, factual elements like the physical location of data servers, the centralization of core processing activities, or the dominant influence of one particular establishment should be taken into account.*** As regards the processor, ‘main establishment’ means the place of its central administration in the Union;

Or. en

Amendment 788

Jacek Protasiewicz, Rafał Trzaskowski

Proposal for a regulation

Article 4 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, **‘main establishment’ means the place of its central administration in the Union;**

Amendment

(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken. ***In case of a group of undertakings, it is the place of establishment of the company with the dominant position over rest of the group as regards data protection policy.*** If no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ***the same rules apply. The competent authority shall be informed by the controller and processor of the designation of a ‘main establishment’;***

Or. en

Amendment 789

Agustín Díaz de Mera Gacía Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

Article 4 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘main establishment’ means as regards the controller, the place ***of*** its ***establishment*** in the Union where the main decisions ***as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union***

Amendment

(13) ‘main establishment’ means ***both*** as regards the controller ***and as regards the processor***, the place ***constituting*** its ***official seat*** in the Union, ***if that is the place*** where the main decisions ***of the institution, enterprise, or group are taken, or the latter place, if different***;

take place. As regards the processor, 'main establishment' means the place of its central administration in the Union;

Or. es

Justification

The proposal links the definition of 'main establishment' to the idea of 'main decisions as to the purposes, conditions and means of the processing of personal data...'. On the one hand, this is a rather unreliable criterion, while on the other hand the nerve centres of an entity will not, by any means, always be linked into the process of the so-called 'main decisions' on the processing of personal data, which means that it is more reliable to use the criterion of the entity's decision-taking centre.

Amendment 790

Axel Voss

Proposal for a regulation

Article 4 – paragraph 1 – point 13 a (new)

Text proposed by the Commission

Amendment

(13a) 'competent supervisory authority' means the supervisory authority which shall be solely competent for the supervision of a controller in accordance with Article 51(2), (3) and (4);

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 791

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 13 a (new)

Text proposed by the Commission

Amendment

(13a) ‘competent supervisory authority’ means the supervisory authority which shall be solely competent for the supervision of a controller in accordance with Article 51(2), (3) and (4);

Or. en

Amendment 792
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts **and may be addressed by any supervisory authority and other bodies in the Union** instead of the controller, with regard to the obligations of the controller under this Regulation;

(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts instead of the controller, with regard to the obligations of the controller under this Regulation;

Or. en

Justification

The representative is acting on behalf of the controller. Therefore it remains that the controller shall be the responsible entity with regard to the supervisory authority.

Amendment 793
Axel Voss

Proposal for a regulation
Article 4 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

(14) ‘representative’ means any natural or legal person established in the Union who,

(14) ‘representative’ means any natural or legal person established in the Union who,

explicitly designated by the controller, acts and **may** be addressed by **any** supervisory authority and other bodies in the Union instead of the controller, with regard to the obligations of the controller under this Regulation;

explicitly designated by the controller, acts and **shall** be addressed by **the competent** supervisory authority and other bodies in the Union instead of the controller, with regard to the obligations of the controller under this Regulation;

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 794

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts **and may be addressed by any supervisory authority and other bodies in the Union instead of the controller**, with regard to the obligations of the controller under this Regulation;

Amendment

(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts **instead of the controller and shall only be addressed by the competent supervisory authority**, with regard to the obligations of the controller under this Regulation;

Or. en

Amendment 795

Axel Voss

Proposal for a regulation

Article 4 – paragraph 1 – point 17

Text proposed by the Commission

(17) ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member

Amendment

(17) ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member

State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings;

State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings ***in or outside the Union***;

Or. en

Amendment 796
Alexander Alvaro

Proposal for a regulation
Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘child’ means any person below the age of **18 years**;

Amendment

(18) ‘child’ means any person below the age of **14 years**;

Or. en

Justification

The age limit of 18 does not reflect the European reality with regard to the laws of the Member States.

Amendment 797
Axel Voss

Proposal for a regulation
Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘child’ means any person below the age of **18 years**;

Amendment

(18) ‘child’ means any person below the age of **13 years**;

Or. en

Amendment 798
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘child’ means any person below the age of **18 years**;

Amendment

(18) ‘child’ means any person below the age of **13 years**;

Or. en

Justification

The definition creates two distinct age definitions in a single regulatory instrument without clear explanation regarding the requirements and circumstances applied to each age-group. There should be a single and clear restriction that does not allow the processing of personal data for anyone below the age of 13 years without parental authorization, regardless of the sector in which that processing occurs.

Amendment 799
Josef Weidenholzer

Proposal for a regulation
Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘**child**’ means any person below the age of 18 years;

Amendment

(18) ‘**minors**’ means any person below the age of 18 years;

Or. en

Amendment 800
Marie-Christine Vergiat

Proposal for a regulation
Article 4 – paragraph 1 – point 18 a (new)

Text proposed by the Commission

Amendment

(18a) ‘archive services’ means public authorities, public services or legal persons, who, in accordance with Union law or the law of the Member State concerned, have as their main or mandatory task the collection,

conservation, classification, dissemination of information about and exploitation of archives in the public interest, in particular with a view to substantiating the rights of natural persons or legal persons established under public and private law, or for the purposes of historical, statistical or scientific research;

Or. fr

Justification

A definition of archive services, which are covered by a derogation, should be added, given their role in safeguarding individual and collective memory.

Amendment 801
Cornelia Ernst

Proposal for a regulation
Article 4 – paragraph 1 – point 19

Text proposed by the Commission

(19) ‘supervisory authority’ means a public authority which is established by a Member State in accordance with Article 46.

Amendment

(19) *Does not affect the English version.*

Or. de

Amendment 802
Axel Voss

Proposal for a regulation
Article 4 – paragraph 1 – point 19

Text proposed by the Commission

(19) ‘supervisory authority’ means a public authority which is established by a Member State in accordance with Article 46.

Amendment

(19) *Does not affect the English version.*

Justification

Applies only to the German version.

Amendment 803

Axel Voss

Proposal for a regulation

Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘financial crime’ means criminal offences in connection with organised crime, racketeering, terrorism, terrorist financing, trafficking in human beings, migrant smuggling, sexual exploitation, trafficking in narcotic drugs and psychotropic substances, illegal arms trafficking, trafficking in stolen goods, corruption, bribery, fraud, counterfeiting currency, counterfeiting and piracy of products, environmental offences, kidnapping, illegal restraint and hostage-taking, robbery, theft, smuggling, offences related to taxation, extortion, forgery, piracy, insider trading and market manipulation.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 804

Nils Torvalds

Proposal for a regulation

Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘data protection officer’ means a natural or legal person or a team of professionals, with the necessary professional experience and expertise required to perform the duties stemming from and outlined in this Regulation, who are employed or designated by the controller or the processor.

Or. en

Amendment 805

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘financial crime’ means criminal offences in connection with organised crime, racketeering, terrorism, terrorist financing, trafficking in human beings, migrant smuggling, sexual exploitation, trafficking in narcotic drugs and psychotropic substances, illegal arms trafficking, trafficking in stolen goods, corruption, bribery, fraud, counterfeiting currency, counterfeiting and piracy of products, environmental offences, kidnapping, illegal restraint and hostage-taking, robbery, theft, smuggling, offences related to taxation, extortion, forgery, piracy, insider trading and market manipulation.

Or. en

Amendment 806

Sophia in 't Veld

Proposal for a regulation
Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘cloud service’ means the provision to the public of data processing or storage services using shared remote resources by means of an electronic communications network;

Or. en

Amendment 807
Monika Hohlmeier, Axel Voss

Proposal for a regulation
Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘blocking’ means marking stored personal data in order to restrict their further processing;

Or. de

Justification

In the light, inter alia, of amendments to Articles 17 and 19, the term needs to be defined.

Amendment 808
Ewald Stadler

Proposal for a regulation
Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19a) ‘anonymising’ means altering personal data in such a manner that all the information relating to a data subject becomes impossible to connect with a particular or identifiable natural person or can only be so connected by means of a

*disproportionate effort in terms of time,
cost and labour;*

Or. de

Amendment 809

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

Article 4 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

*(19a) ‘official statistics’ means
quantitative and qualitative, aggregated
and representative information
characterising a collective phenomenon
in a considered population;*

Or. es

Justification

Bearing in mind the total exclusion from the scope of the regulation of official statistics and electoral rolls, definitions should be provided of what these consist of.

Amendment 810

Monika Hohlmeier

Proposal for a regulation

Article 4 – paragraph 1 – point 19 b (new)

Text proposed by the Commission

Amendment

*(19b) ‘erasure’ means rendering stored
personal data unrecognisable;*

Or. de

Justification

A definition is needed in connection with Article 17.

Amendment 811
Ewald Stadler

Proposal for a regulation
Article 4 – paragraph 1 – point 19 b (new)

Text proposed by the Commission

Amendment

(19b) ‘pseudonymising’ means replacing the name and other identifying features with a mark for the purpose of preventing or seriously impeding the identification of the data subject;

Or. de

Amendment 812
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 4 – paragraph 1 – point 19 b (new)

Text proposed by the Commission

Amendment

(19b) ‘electoral rolls’ means personal data, and data relating to the place of residence, of persons entitled to vote;

Or. es

Justification

Bearing in mind the total exclusion from the scope of the regulation of official statistics and electoral rolls, definitions should be provided of what these consist of.

Amendment 813
Ewald Stadler

Proposal for a regulation
Article 4 – paragraph 1 – point 19 c (new)

Text proposed by the Commission

Amendment

(19c) ‘third party’ means a natural or legal person, authority, institution or any

other entity, with the exception of the data subject, the controller, the processor and persons who are authorised to process the data under the direct responsibility of the controller or of the processor;

Or. de

Amendment 814

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation

Article 4 – paragraph 1 – point 19 c (new)

Text proposed by the Commission

Amendment

(19c) ‘information society services’ means services provided at the recipient’s individual request, at a distance, and by electronic means, that is to say, the service is sent initially and received at its destination by means of electronic equipment for the processing, including digital compression, and storage of data and is transmitted, conveyed, and received entirely by wire, by radio, by optical means, or by any other electromagnetic means.

Or. es

Justification

A definition of ‘information society services’ needs to be provided so as to ensure the correct and reliable implementation of Article 8(1).

Amendment 815

Dimitrios Droutsas

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Personal data ***must*** be:

Personal data ***shall*** be:

Or. en

Amendment 816

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) processed lawfully, ***fairly and in a***
transparent manner in relation to the data
subject;

(a) processed lawfully, ***proportionate and***
transparent manner in relation to the data
subject;

Or. en

Amendment 817

Ewald Stadler

Proposal for a regulation

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) processed lawfully, fairly and in a
transparent manner ***in relation to the data***
subject;

(a) processed lawfully, fairly and in a
transparent manner;

Or. de

Amendment 818

Jens Rohde, Adina-Ioana Vălean

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 819

Louis Michel

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 incompatible with those purposes, ***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 Article 6(1)(a) to (f), as well as respect all other dispositions of this Regulation;***

Or. en

Amendment 820

Timothy Kirkhope

on behalf of the ECR Group

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, ***clear*** and legitimate purposes and not further processed in a way incompatible with those purposes;

Amendment 821

Sarah Ludford, Charles Tannock

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 incompatible with those purposes; ***further processing of data for health, historical, statistical, or scientific purposes shall not be considered as incompatible subject to compliance with the conditions in Article 81 or Article 83 as appropriate;***

Or. en

Justification

Self-explanatory.

Amendment 822

Cornelia Ernst, Marie-Christine Vergiat

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, not further processed in a way incompatible with those purposes ***and processed in a proportionate manner to that purpose (purpose limitation);***

Or. en

Amendment 823
Marie-Christine Vergiat

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 incompatible with those purposes; ***further processing carried out by archive services in accordance with Member State law shall be deemed compatible with those purposes and shall be subject to the provisions of Article 83a;***

Or. fr

Justification

This amendment seeks to clarify the scope of the measures intended to apply in particular to archives, given their very specific nature, by incorporating an explicit reference to processing by archive services carried out in accordance with Member State law.

Amendment 824
Louis Michel

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 ***not excessive*** in relation to the purposes for which they are processed;

Or. en

Amendment 825

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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 ***not excessive*** 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. es

Amendment 826

Ewald Stadler

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 limited to the minimum necessary in relation to the purposes for which they are processed;

Or. de

Amendment 827

Salvatore Iacolino

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 ***proportionate*** to

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;

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. it

Justification

Data processing must be done in a proportionate manner and should enable the controller or processor to carry out their work in full.

Amendment 828

Axel Voss

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

Justification

Taken from ITRE-Opinion.

Amendment 829

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) accurate and kept up to date; every

Amendment

(d) accurate and ***where necessary*** kept up

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;

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 830

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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 delay;

Or. es

Amendment 831

Ewald Stadler

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, **if 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, **if this is not possible, blocked or** rectified without delay;

Or. de

Amendment 832

Axel Voss

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 assess the necessity to continue the storage;

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 **Articles 81 and 83** and if a periodic review is carried out to assess the necessity to continue the storage;

Or. en

Amendment 833

Jan Mulder

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 assess the necessity to continue the storage;

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 research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage **as well as for dispute resolution purposes**;

Or. en

Amendment 834
Claude Moraes, Glenis Willmott

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 assess the necessity to continue the storage;

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 **health purposes in accordance with Article 81 or 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 necessity to continue the storage;

Or. en

Justification

It should also be possible to store personal data for longer periods for health purposes according to the conditions set out under Article 81 in order to ensure that all appropriate data is available to deliver the most appropriate care to the data subject.

Amendment 835
Adina-Ioana Vălean, Jens Rohde

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

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

with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;

rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;

Or. en

Amendment 836
Dimitrios Droutsas

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 assess the necessity to continue the storage;

Amendment

(e) kept in a form which permits identification *or singling out* 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 assess the necessity to continue the storage;

Or. en

Amendment 837
Louis Michel

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

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 research purposes in accordance

with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;

with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage *and technical and organizational measures are put in place to limit access to the data only for the purposes of historical, statistical and scientific research;*

Or. en

Amendment 838

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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 assess the necessity to continue the storage;*

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, *without prejudice to the provisions of Article 83;*

Or. es

Amendment 839

Marie-Christine Vergiat

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

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 research purposes in accordance
with the rules and conditions of Article 83
and *if a periodic review is carried out to
assess the necessity to continue the
storage*;

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 *until such time as it is clear that
continued storage is no longer necessary*;
*personal data may be stored for longer
periods insofar as the data will be
processed by archive services in
accordance with Member State law, in
keeping with the conditions laid down in
Article 83a*;

Or. fr

Justification

This amendment seeks to clarify the scope of the measures intended to apply in particular to archives, given their very specific nature, by incorporating an explicit reference to processing by archive services carried out in accordance with Member State law.

Amendment 840

Ewald Stadler

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
assess the necessity to continue the storage;

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 *if statutory retention rules so
require or* 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
assess the necessity to continue the storage;

Or. de

Amendment 841

Sarah Ludford

Proposal for a regulation

Article 5 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) protected against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;

Or. en

Justification

This is a useful additional principle.

Amendment 842

Sarah Ludford

Proposal for a regulation

Article 5 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) afford appropriate safeguards when processed outside the EEA. Such processing will remain the responsibility of the controller;

Or. en

Justification

This is a useful additional principle.

Amendment 843

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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

Text proposed by the Commission

Amendment

(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. **deleted**

Or. es

Justification

The responsibility and liability of the person carrying out a processing operation are not so much a principle of processing per se as a consequence. Persons processing personal data must do so in accordance with generally accepted substantive principles and be answerable for any bad processing practices that do not fully comply with the laws in force or, on any other grounds, are found to occasion damage or prejudice to the data subject or to third parties. The first factor – substantive principles – constitutes the legal basis of the data protection system, and consists of a set of specifically-designed principles; the second factor derives from a general legal principle, and should therefore be specified in the appropriate context, which in this case means in Chapter VIII.

Amendment 844
Jan Mulder

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

Text proposed by the Commission

Amendment

(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.

(f) processed under the responsibility and liability of the controller, who shall **be able to** ensure and demonstrate for **its** processing **operations** the compliance with the provisions of this Regulation.

Or. en

Justification

It should be the responsibility of the processor of controller to demonstrate compliance when asked.

Amendment 845

Axel Voss

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 Article 51(2).**

Or. en

Amendment 846

Dimitrios Droutsas

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 **be able to** demonstrate for each processing operation the compliance with the provisions of this Regulation;

Or. en

Amendment 847

Ewald Stadler

Proposal for a regulation

Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) processed under the responsibility **and**

Amendment

(f) processed under the responsibility of the

liability of the controller, who shall ensure **and demonstrate** for each processing operation the compliance with the provisions of this Regulation.

controller, who shall ensure for each processing operation the compliance with the provisions of this Regulation.

Or. de

Amendment 848
Ewald Stadler

Proposal for a regulation
Article 5 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) personal data shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data, for example pseudonymised or anonymised data;

Or. de

Amendment 849
Dimitrios Droutsas

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Processing of personal data shall be organised and carried out in a way that ensures compliance with the principles referred to in paragraph 1.

Or. en

Amendment 850
Alexander Alvaro

Proposal for a regulation
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Respect to context

Controllers in cooperation with processors shall implement appropriate technical and organisational measures and procedures in respect to the context of the data processing, in particular where:

(a) processing of personal data is carried out in the context of product and service fulfilment;

(b) processing of personal data is carried out solely in the context of fraud prevention or is strictly necessary to ensure network and information security and the security of related services;

(c) processing of personal data is carried out in the context of legal, regulatory or law enforcement obligations which the controller is subject to in the Union;

(d) processing of personal data is carried out in the context of internal processing operations such as accounting and controlling or business to business data transfers;

(e) processing of personal data is carried out in the context of journalistic, artistic or literary expression;

(f) processing of personal data is carried out in the context of historical, statistical and scientific research;

(g) processing of personal data is carried out in the employment context.

(h) processing of personal data is carried out in the health context.

Or. en

Justification

The same personal data can have different significance depending on the context of and the risks represented by its processing. The loss of an address of a data subject can have different implications when it is lost by a retailer which had retained the address for shipping purposes or when it is lost by a cancer specialist which had retained the address for billing purposes.

Amendment 851
Alexander Alvaro

Proposal for a regulation
Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5b

Respect to risk

Controllers shall implement appropriate technical and organisational measures and procedures in respect to the risks represented by the data processing, in particular where:

(a) personal data of more than 5000 data subjects during any consecutive 12-month period are processed;

(b) special categories of data as laid down in Article 9.1 are processed;

(c) personal data of children are processed;

(d) not solely pseudonymised data are processed;

(e) processing operations in case of a breach may adversely affect the personal data or privacy of the data subject causing identity theft, financial or physical harm or significant humiliation or damage to reputation;

(f) a systematic and extensive evaluation is carried out as referred to under Article 4, paragraph 1, point 2 d (new);

(g) information on sex life, health, race and ethnic origin or for the provision of health care, epidemiological researches,

or surveys of mental or infectious diseases are processed and where the data are processed for taking measures or decisions regarding specific individuals on a large scale;

(h) publicly accessible areas are monitored, especially when using optic-electronic devices (video surveillance) on a large scale;

(i) personal data are processed in large scale filing systems on genetic data or biometric data;

(j) processing operations require the consultation of the supervisory authority pursuant to point (b) of Article 34(2).

Or. en

Justification

The same personal data can have different significance depending on the context of and the risks represented by its processing. The loss of an address of a data subject can have different implications when it is lost by a retailer which had retained the address for shipping purposes or when it is lost by a cancer specialist which had retained the address for billing purposes.

Amendment 852
Alexander Alvaro

Proposal for a regulation
Article 5 c (new)

Text proposed by the Commission

Amendment

Article 5c

Processing not allowing direct identification

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

2. Where the data controller is unable to comply with a provision of this Regulation because the data processed by the controller do not permit the controller to directly identify a natural person, the controller shall not be obliged to comply with that particular provision of this Regulation.

Or. en

Justification

Article 10 moved here and further specified to promote e.g. the processing of pseudonymised data.

Amendment 853
Birgit Sipper, Josef Weidenholzer

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 for one specific ***purpose***;

Or. en

Justification

The data subject has to know and understand what they are contenting to. Consent has to be given for only one specific purpose.

Amendment 854
Dimitrios Droutsas

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

Text proposed by the Commission

(a) the data subject has given consent to the

Amendment

(a) the data subject has given ***explicit and***

processing of their personal data for one or more specific purposes;

informed consent to the processing of their personal data for one or more specific purposes;

Or. en

Amendment 855

Cornelia Ernst, Marie-Christine Vergiat

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 for one or more specific purposes, ***in the form as described in Article 7;***

Or. en

Amendment 856

Axel Voss

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(b) processing is necessary for the performance ***or execution*** 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. en

Justification

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

Amendment 857

Axel Voss

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) processing is necessary for compliance with a legal **or contractual** obligation **based in Union or national law of a Member State, regulatory rule, guidance, industry code of practice, either domestically or internationally or for a permission of supervisory requirement or a different legal rule** to which the controller is subject **including the requirements of supervisory authorities**;

Or. en

Justification

Partly taken from ITRE-Opinion. The provision should ensure that domestic financial regulation or codes of conduct are included.

Amendment 858

Alexander Alvaro, Nadja Hirsch

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) processing is **solely carried out in the context referred to under Article 5a(2), (3) or (6) in accordance with Article 83**;

Or. en

Justification

Article is amended in accordance with respect to context and risk principles pursuant to Articles 5a (new) and 5b (new).

Amendment 859

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(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 860

Louis Michel

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) processing is necessary for compliance with a legal obligation to which the controller ***or the group of undertakings of which the controller is a member or any other member thereof*** is subject;

Or. en

Amendment 861

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

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 ***exercise of the right or*** compliance with a legal obligation to which the controller is subject;

Or. en

Amendment 862
Sarah Ludford

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 ***or regulatory rule or industry code of practice, either domestically or internationally,*** to which the controller is subject;

Or. en

Justification

Compliance with financial and other regulatory requirements must be a legitimate reason for processing data.

Amendment 863
Monika Hohlmeier

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 ***under Union law or the law of a Member State*** to which the controller is subject;

Justification

This corresponds with the current wording of Article 7(c) of Directive 95/46/EC and the English version ('legal obligation') (translator's note: the German word used to render 'legal' is altered by the amendment). The German word used for 'legal' [in the left-hand column] implies that provisions concerning requirements to process personal data would have to be confined to 'laws', which is too restrictive. An amendment is needed to make it clear that such an obligation may arise from either legal order.

Amendment 864

Véronique Mathieu Houillon, Axel Voss

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) processing is necessary for compliance with a legal obligation to which the controller, ***the group of companies of which the controller is a member or any other member of that group of companies*** is subject

Or. fr

Amendment 865

Ewald Stadler

Proposal for a regulation

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) ***a law or other legal provision*** to which the controller is subject ***requires or allows processing;***

Or. de

Amendment 866

Salvatore Iacolino

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

Text proposed by the Commission

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

Amendment

(c) processing is necessary for compliance with a legal obligation to which the controller is subject, ***including activities carried out for security reasons or to prevent and detect criminal offences;***

Or. it

Justification

This amendment seeks to clarify the need to include security and crime-prevention measures in legitimate data processing.

Amendment 867
Axel Voss

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

Taken from ITRE-Opinion.

Amendment 868
Adina-Ioana Vălean, Jens Rohde

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 869

Axel Voss

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 public interest or in the exercise of official authority vested in the controller ***or the third party to whom the data is transferred;***

Or. en

Amendment 870

Alexander Alvaro, Nadja Hirsch

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 public interest or in the exercise of official authority vested in the controller ***or in the third party to which the data are***

transferred;

Or. en

Amendment 871

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 6 – paragraph 1 – point e

Text proposed by the Commission

(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;

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 ***or in the third party to which the data are transferred;***

Or. en

Amendment 872

Dimitrios Droutsas

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

deleted

Or. en

Justification

Point f of paragraph 1 is replaced by much more detailed guidance on 'legitimate interest' in the new paragraphs 1a, 1b and 1c. See related amendments to Articles 6(1a), (1b) and (1c). The amendments give clearer guidance and provide legal certainty for data processing based on the legitimate interest of the data controller. The related delegated act in Article 6(5) is deleted, because it would have touched on the essence of the law.

Amendment 873

Alexander Alvaro, Nadja Hirsch

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 **the controller or by the third party or parties to whom the data are disclosed and of the legitimate expectations of the data subject based on his or her relationship with the** controller, **taking into account the** interests **or rights and freedoms of the controller to conduct a business as well as** **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

For legitimate interest to provide a legal basis for processing, controllers must take into account the legitimate expectations of the data subject while data subjects must acknowledge the rights and freedoms of the controller to conduct a business.

Amendment 874

Adina-Ioana Vălean, Jens Rohde

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 ***the controller or by the third party or parties to whom the data are disclosed and the legitimate expectations of the data subject based on his or her relationship with the controller, taking into account the interests or rights and freedoms of the controller to conduct a business as well as*** 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

Data processing for the legitimate interests of third parties should remain possible, as under the Directive 95/46/EC. The use of third-party addresses, for instance, is particularly important for reaching new customers.

Amendment 875
Josef Weidenholzer

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

Amendment

(f) ***points (a) to (e) do not apply, but*** processing is necessary for the purposes of ***predominant legitimate*** interests pursued by a controller ***and these*** interests ***are overriding*** the interests or fundamental rights and freedoms of the data subject. This shall not apply to processing carried out by public authorities in the

carried out by public authorities in the performance of their tasks.

performance of their tasks.

Or. en

Justification

The proposed definition of 'legitimate interests' is inherently vague. Overriding interests should be a secondary ground for processing if none of the other grounds is applicable.

Amendment 876

Sarah Ludford

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 ***such as to detect crime or to prevent crime, fraud, loss or harm or to meet the legitimate expectations of the data subject in the efficient delivery of the service***, 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

This highlights a particularly strong strand of legitimate interests and introduces the notion of legitimate expectations.

Amendment 877

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

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) *without prejudice to 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,* processing is necessary for the purposes of the legitimate interests pursued by a controller, *in particular:*

- direct marketing for its own and similar products and services,

- the enforcement of the claims of the controller or of a third party on behalf of which the controller is acting in relation to the data subject, or for preventing or limiting damage by the data subject to the controller

This shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. en

Amendment 878

Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Lara Comi, Hubert Pirker, Renate Sommer

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

Amendment

(f) processing is necessary for the purposes of the legitimate interests pursued by, *or on behalf of a controller or a processor, or by a third party or parties in whose interest the data is processed, including for the security of processing,* except where such interests are overridden by the interests or fundamental rights and

carried out by public authorities in the performance of their tasks.

freedoms of the data subject which require protection of personal data, ***such as in the case of processing data pertaining to a child. The interest or fundamental rights and freedoms of the data subject*** shall not ***override*** processing carried out by public authorities in the performance of their tasks.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 879 **Sophia in 't Veld**

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. ***Legitimate interest as a legal ground for processing can only be applied in a restrictive way, to the extent that it is strictly necessary for the purpose of the legitimate interest, and when no other legal ground is available for the specific purpose. The data controller shall in that case inform the data subject 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 880

Louis Michel

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 ***or controllers or by a third party or parties to whom the data are disclosed,*** 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.

Or. en

Amendment 881

Cornelia Ernst, Marie-Christine Vergiat

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) ***Where none of the legal grounds for the processing of personal data referred to in paragraph 1 apply, processing of personal data shall be lawful if and to the extent that it is necessary for and proportionate to the purposes of well-defined*** legitimate interests pursued by ***the*** controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require ***the*** protection of personal data. ***The data controller shall in that case inform the data subject about the data processing explicitly and separately, and shall inform him of the possibility to seek redress via the supervisory authority. The***

controller shall also publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject. This paragraph shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. en

Amendment 882

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

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, ***or by a third party to whom the data are to be communicated***, 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. es

Justification

Aims to make the regulation clearer and to avoid any misunderstandings or doubts arising.

Amendment 883

Salvatore Iacolino

Proposal for a regulation

Article 6 – paragraph 1 – point f

Text proposed by the Commission

(f) processing is necessary for the purposes

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.

of the legitimate interests pursued by a controller, ***processor or third party to whom the data are disclosed but which are not to be disseminated***, 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. it

Justification

The lawfulness of processing should be extended also to processors or third party recipients of data that are not for the purpose of distribution, thus balancing the rights of the individuals concerned with the security requirements of certain service providers.

Amendment 884

Ewald Stadler

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 ***or an entitled third party***, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. This shall not apply to processing carried out by public authorities in the performance of their tasks.

Or. de

Amendment 885

Lidia Joanna Geringer de Oedenberg

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 ***personal data require particular safeguarding by virtue of the overriding*** interests ***of protecting data subjects in connection with their*** fundamental rights and freedoms. ***This shall apply*** in particular where the data subject is a child. ***It*** shall not apply to processing carried out by public authorities in the performance of their tasks.
Exemption from the scope of this provision may also be based on one or more of the other grounds set out in this paragraph.

Or. pl