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*Committee on Civil Liberties, Justice and Home Affairs*

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**2011/0011(COD)**

6.3.2013

## **AMENDMENTS (6)**

### **1829 - 2090**

**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 – 2011/0011(COD))

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**Amendment 1829**  
**Philippe Juvin**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. fr

*Justification*

*In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry, namely the controller.*

**Amendment 1830**  
**Sophia in 't Veld**

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

*Text proposed by the Commission*

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

*Amendment*

1. Each controller and processor **shall be able to demonstrate compliance with the provisions of this Regulation on request of the supervisory authority.**

Or. en

**Amendment 1831**  
**Jan Mulder**

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

*Text proposed by the Commission*

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

*Amendment*

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of processing operations ***if those operations pose a risk as stated in Article 33(2), so that it can at all times demonstrate compliance with this regulation.***

Or. en

**Amendment 1832**

**Jens Rohde, Adina-Ioana Vălean**

**Proposal for a regulation**

**Article 28 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1833**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 28 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. Each controller and processor and, if any, the controller's representative, shall ***ensure that they are in a position duly to inform the authorities which so request*** of all processing operations under its responsibility.

Or. es

## *Justification*

*A clear and universal principle of accountability should be prescribed as the general rule - i.e. that controllers must always ensure that they are in a position duly to inform the authorities which so request of all processing operations under their responsibility.*

**Amendment 1834**  
**Wim van de Camp**

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

#### *Text proposed by the Commission*

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

#### *Amendment*

1. Each controller ***shall maintain an overview of all processing operations under its responsibility, which pose a high degree of risk to the fundamental rights of the data subjects, in particular their right to privacy, pursuant to the outcome of the privacy impact assessment as referred to in Article 33.***

Or. en

## *Justification*

*The organisational size criterion (>250 employees) is not useful to differentiate between organisations with respect to the scope of this article. Instead, a risk-based approach in Article 28 would be better suited to achieve the goals of this Regulation, similar to the notification requirement of Article 18 of the current Directive, which this article replaces. The Directive allowed for the exemption of a wide range of processing categories, which do not pose a significant risk for the fundamental rights of the data subject. It is therefore consistent to allow also for a similar risk-based exemption with regard to the documentation requirements under Article 28 and to limit those to processing that pose a high degree of risk for the data subject. Although organisations with a high maturity level in compliance and risk management would consider the documentation of data processing sound risk management, requiring all organisations to document each and every form of data processing taking place in the organisation (from the main customer database down to the department birthday list) would place an excessive and disproportional burden on organisations, and would not be consistent with the statements of the Commission with regard to implementation cost. In order to determine a high degree of risk, reference is made to the privacy impact assessment of Article 33. When the privacy impact assessment indicates a high degree of risk, the documentation obligation is triggered.*

**Amendment 1835**  
**Nathalie Griesbeck**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. fr

*Justification*

*This amendment seeks to make the documentation requirement more effective.*

**Amendment 1836**  
**Louis Michel**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1837**  
**Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál**

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

*Text proposed by the Commission*

1. Each controller and ***processor and***, if

*Amendment*

1. Each controller and, if any, the

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

controller's representative, shall maintain documentation of all processing operations under its responsibility.

Or. en

**Amendment 1838**  
**Marie-Christine Vergiat**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. fr

**Amendment 1839**  
**Timothy Kirkhope**  
on behalf of the ECR Group

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

*Text proposed by the Commission*

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

*Amendment*

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of processing operations under its responsibility ***regarding data handling practices, including what purpose data processing is being carried out for and for which data controller.***

Or. en

**Amendment 1840**  
**Ewald Stadler**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. de

**Amendment 1841**  
**Sophia in 't Veld**

**Proposal for a regulation**  
**Article 28 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Without prejudice to the other provisions of this Regulation, each controller and processor shall maintain documentation on transfers of data to a third country or an international organisation, including the identification of that third country or international organisation, the organisation, enterprise, public organisation or competent authority concerned, the legal basis of the transfer, and, in case of transfers referred to in point (h) of Article 44(1), the documentation of appropriate safeguards.***

Or. en

**Amendment 1842**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 28 – paragraph 1 a (new)**

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

Or. en

**Amendment 1843**

**Sophia in 't Veld**

**Proposal for a regulation**

**Article 28 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

***(a) the name and contact details of the controller, or any joint controller or processor, and of the representative, if any;***

***(b) the name and contact details of the data protection officer, if any;***

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

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

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

*pursued by them;*

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

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

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

Or. en

#### **Amendment 1844**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

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

##### *Amendment*

2. *Enterprises or organisations which do not have a data protection officer or sufficient valid certification shall hold the statutory model documentation for all processing operations under their responsibility. That* documentation shall contain at least the following information:

Or. es

#### **Amendment 1845**

**Wim van de Camp**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. The *documentation* shall contain at least

##### *Amendment*

2. The *overview* shall contain at least the

the following information:

following information:

Or. en

*Justification*

*The contact details of the controller are known to the controller and irrelevant for the purpose of documentation;- the name and contract details of the DPO are known to the controller. Having to document them per set of processing operations would put an unreasonable compliance burden on the controller, as DPO's change.*

**Amendment 1846**  
**Dimitrios Droutsas**

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

*Text proposed by the Commission*

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

***(a) the name and contact details of the controller, or any joint controller or processor, and of the representative, if any;***

***(b) the name and contact details of the data protection officer, if any;***

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

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

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

***(f) where applicable, transfers of data to a third country or an international organisation, including the identification of that third country or international organisation and, in case of transfers***

*Amendment*

2. The documentation shall contain at least the information ***listed in Article 14.***

*referred to in point (h) of Article 44(1),  
the documentation of appropriate  
safeguards;*

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

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

Or. en

#### *Justification*

*The content of Article 28 on documentation requirements is moved to Article 14 on information rights. The proposed regulation can be simplified by merging information and documentation, essentially being two sides of the same coin. This will reduce administrative burdens for data controllers and make it easier for individuals to understand and exercise their rights. See related amendments to Article 14.*

#### **Amendment 1847**

**Timothy Kirkhope**

on behalf of the ECR Group

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

Or. en

#### **Amendment 1848**

**Louis Michel**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

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

##### *Amendment*

2. ***Such*** documentation shall contain the following information:

**Amendment 1849**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the name and contact details of the controller, ***or any joint controller or processor***, and of the representative, if any;

*Amendment*

(a) the name and contact details of the controller and of the representative, if any;

Or. en

**Amendment 1850**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the name and contact details of the ***controller, or any joint controller or processor, and of the representative, if any***;

*Amendment*

(a) the name and contact details of the processor;

Or. de

**Amendment 1851**

**Wim van de Camp**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point b**

*Text proposed by the Commission*

***(b) the name and contact details of the data protection officer, if any;***

*Amendment*

***deleted***

Or. en

### *Justification*

*The contact details of the controller are known to the controller and irrelevant for the purpose of documentation;- the name and contract details of the DPO are known to the controller. Having to document them per set of processing operations would put an unreasonable compliance burden on the controller, as DPO's change.*

#### **Amendment 1852**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) the name and contact details of the data protection officer, if any;***

***deleted***

Or. es

#### **Amendment 1853**

**Louis Michel**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) the name and contact details of the data protection officer, if any;***

***(b) the name and contact details of the data protection **organisation or data protection** officer, if any;***

Or. en

#### **Amendment 1854**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) the purposes of the processing, including the legitimate interests pursued***

***deleted***

*by the controller where the processing is based on point (f) of Article 6(1);*

Or. en

**Amendment 1855**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point c**

*Text proposed by the Commission*

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

*Amendment*

(c) the **generic** purposes of the processing;

Or. en

**Amendment 1856**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point c**

*Text proposed by the Commission*

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

*Amendment*

(c) *the information pursuant to Article 14(1) if the processor is acting on behalf of a controller directly responsible for the operation;*

Or. de

**Amendment 1857**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

**Amendment 1858**  
**Stanimir Ilchev**

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

*Text proposed by the Commission*

*Amendment*

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

***(d) the information pursuant to Article 14(2) if the processor is acting for a controller indirectly responsible for the operation;***

Or. de

**Amendment 1859**  
**Adina-Ioana Vălean, Jens Rohde**

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

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

**Amendment 1860**  
**Louis Michel**

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

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

**Amendment 1861**  
**Stanimir Ilchev**

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

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. de

*Justification*

*Rendered superfluous by the provision above.*

**Amendment 1862**  
**Cornelia Ernst, Marie-Christine Vergiat**

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

*Text proposed by the Commission*

*Amendment*

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

***(e) the recipients of the personal data, including the controllers to whom personal data are disclosed for the legitimate interest***

by them;

pursued by them;

Or. en

**Amendment 1863**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point f**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1864**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point f**

*Text proposed by the Commission*

*Amendment*

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

Or. de

*Justification*

*Rendered superfluous by the provision above.*

**Amendment 1865**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point f**

*Text proposed by the Commission*

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

*Amendment*

(f) where applicable, transfers of ***personal*** data to a third country or an international organisation, and, in case of transfers referred to in point (h) of Article 44(1), ***a reference to*** safeguards ***employed***;

Or. en

**Amendment 1866**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point g**

*Text proposed by the Commission*

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

*Amendment*

***deleted***

Or. en

**Amendment 1867**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point g**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

Or. de

*Justification*

*Rendered superfluous by the provision above.*

**Amendment 1868**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point g (new)**

*Text proposed by the Commission*

*Amendment*

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

(g) a general indication of the time limits  
for erasure **or data retention policy  
applicable to** the different categories of  
data;

Or. en

**Amendment 1869**

**Marie-Christine Vergiat**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point g**

*Text proposed by the Commission*

*Amendment*

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

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

Or. fr

### *Justification*

*Amendment proposed by the French Higher Council of Notaries: the documentation which controllers are required to maintain must contain a number of different items of information (Article 28). However, some categories of information must not be erased, but archived. The proposal for a regulation makes no mention of this possibility. The rules on documentation should draw a distinction between the time limits for erasure and those for archiving.*

#### **Amendment 1870**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – point g**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

Or. es

### *Justification*

*Some flexibility is needed since, in the case of many processing operations, this item of data cannot be provided, or only a very rough idea can be given.*

#### **Amendment 1871**

**Hélène Flautre**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 2 – point g**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

Or. fr

#### **Amendment 1872**

**Axel Voss**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) where the processor processes personal data in a third country a general indication of the national obligations of the law in the third country;***

Or. en

*Justification*

*In case of a national obligation in a third country law might be of interest of the data subject.*

**Amendment 1873**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

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

Or. de

*Justification*

*Rendered superfluous by the provision above.*

**Amendment 1874**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

***(h) the description of the mechanisms*** ***deleted***

*referred to in Article 22(3).*

Or. en

**Amendment 1875**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1876**

**Sophia in 't Veld**

**Proposal for a regulation**

**Article 28 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1877**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*3. The controller and the processor and, if  
any, the controller's representative, shall  
make the documentation available, on* *deleted*

*request, to the supervisory authority.*

Or. de

*Justification*

*Moved to Article 29(3).*

**Amendment 1878**  
**Cornelia Ernst**

**Proposal for a regulation**  
**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1879**  
**Philippe Juvin**

**Proposal for a regulation**  
**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. fr

*Justification*

*In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry,*

*namely the controller.*

**Amendment 1880**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

*Justification*

*In all cases, the controller should make the documentation available to the supervisory authority. A corresponding obligation for the processor has been proposed in Article 26.*

**Amendment 1881**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1882**  
**Timothy Kirkhope**  
on behalf of the ECR Group

**Proposal for a regulation**  
**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

***However, equal emphasis and significance must be placed on good practice and compliance and not just the completion of documentation.***

Or. en

**Amendment 1883**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1884**

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

**Proposal for a regulation**

**Article 28 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1885**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. In the case of a group of undertakings where each data controller within the group of undertakings carries out substantively the same type of processing operation, only one set of documentation shall be kept at group level.***

Or. en

**Amendment 1886**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***3b. Where a controller engages a processor, the controller shall be responsible for maintaining the documentation referred to in Article 28(1) and can require the processor to provide assistance in compiling the information.***

Or. en

**Amendment 1887**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 28 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The obligations referred to in paragraphs

4. The obligations referred to in paragraphs

1 and 2 shall not apply to ***the following controllers and processors:***

(a) a natural person processing personal data without a commercial interest; ***or***

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

1 and 2 shall not apply to a natural person processing personal data without a commercial interest.

Or. de

**Amendment 1888**  
**Sophia in 't Veld**

**Proposal for a regulation**  
**Article 28 – paragraph 4**

*Text proposed by the Commission*

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

(a) a natural person processing personal data without a commercial interest; ***or***

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

*Amendment*

4. The ***obligation*** referred to in paragraphs 1 shall not apply to a natural person processing personal data without a commercial interest.

Or. en

**Amendment 1889**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 28 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The obligations referred to in paragraphs 1 and 2 shall not apply to natural ***persons***

***controllers and processors:***

processing personal data without a commercial interest.

***(a) a natural person*** processing personal data without a commercial interest; ***or***

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

Or. en

*Justification*

*As size is not relevant, Article 28(4)(b) can be deleted.*

**Amendment 1890**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 28 – paragraph 4**

*Text proposed by the Commission*

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

***(a) a natural person*** processing personal data without a commercial interest; ***or***

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

*Amendment*

4. The obligations referred to in paragraphs 1 and 2 shall not apply to ***a*** natural person processing personal data without a commercial interest.

Or. en

**Amendment 1891**  
**Philippe Juvin**

**Proposal for a regulation**  
**Article 28 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

Or. fr

*Justification*

*In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry, namely the controller.*

**Amendment 1892**

**Axel Voss**

**Proposal for a regulation**

**Article 28 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

4. The obligations referred to in paragraphs 1, **2 and 3** shall not apply to the following controllers and processors:

Or. en

**Amendment 1893**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 28 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

Or. es

**Amendment 1894**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 28 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

**Amendment 1895**  
**Louis Michel**

**Proposal for a regulation**  
**Article 28 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

**Amendment 1896**  
**Timothy Kirkhope**  
on behalf of the ECR Group

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

*Text proposed by the Commission*

*Amendment*

*(a) a natural person processing personal data without a commercial interest; or*

*deleted*

Or. en

**Amendment 1897**  
**Cornelia Ernst, Marie-Christine Vergiat**

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

*Text proposed by the Commission*

(a) a natural person processing personal data without a commercial interest; or

*Amendment*

(a) a natural person processing personal data without a commercial interest, ***unless personal data is made accessible for a large number of persons or a large amount of personal data about the data subjects are processed or combined or aligned with other personal data.***

Or. en

**Amendment 1898**  
**Nils Torvalds**

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

*Text proposed by the Commission*

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

*Amendment*

***deleted***

Or. en

**Amendment 1899**  
**Cornelia Ernst, Marie-Christine Vergiat**

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

*Text proposed by the Commission*

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

*Amendment*

***deleted***

**Amendment 1900**

**Claude Moraes, Glenis Willmott**

**Proposal for a regulation**

**Article 28 – paragraph 4 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) an enterprise or an organisation employing fewer than 250 persons that is processing personal data only as an activity ancillary to its main activities, ***unless the enterprise or organisation is processing certain categories of sensitive personal data, as defined under Article 9(1).***

Or. en

*Justification*

*Detailed requirements concerning documentation have been introduced presumably with a view to increasing data privacy. The proposals suggest that these requirements would not apply to organisations defined under Article 28(4)(b). There should not be a lower level of protection based on the number of employees an organization has where the processing of data concerns data categorized as sensitive under Article 9(1).*

**Amendment 1901**

**Sari Essayah, Eija-Riitta Korhola**

**Proposal for a regulation**

**Article 28 – paragraph 4 – point b**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

### *Justification*

*The limit of 250 employees places employers in an unequal position, is discriminatory against larger enterprises and is by no means necessary for reaching the aim. The number of employees doesn't correlate with the amount or type of personal data kept by the organization. A small organization with just a few employees can control a huge amount of delegate personal data and vice versa. Furthermore, the limit is not in all aspects easily interpreted.*

#### **Amendment 1902**

**Timothy Kirkhope**

on behalf of the ECR Group

#### **Proposal for a regulation**

##### **Article 28 – paragraph 4 – point b**

###### *Text proposed by the Commission*

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

###### *Amendment*

(b) an enterprise or an organisation employing fewer than **500** persons that is processing personal data only as an activity ancillary to its main activities.

Or. en

#### **Amendment 1903**

**Birgit Sippel, Josef Weidenholzer, Evelyn Regner**

#### **Proposal for a regulation**

##### **Article 28 – paragraph 4 – point b**

###### *Text proposed by the Commission*

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

###### *Amendment*

(b) an enterprise or an organisation employing fewer than **50 persons** that is processing personal data **relating to fewer than 250 data subjects** only as an activity ancillary to its main activities.

Or. de

#### **Amendment 1904**

**Nils Torvalds**

**Proposal for a regulation**  
**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1905**  
**Sophia in 't Veld**

**Proposal for a regulation**  
**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1906**  
**Jens Rohde, Adina-Ioana Vălean**

**Proposal for a regulation**  
**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1907**  
**Stanimir Ilchev**

**Proposal for a regulation**  
**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. de

*Justification*

*Authorisation is already provided for by Article 14.*

**Amendment 1908**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1909**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation  
Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1910**

**Louis Michel**

**Proposal for a regulation  
Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with** **deleted**

*Article 86 for the purpose of further specifying the criteria and requirements for the documentation referred to in paragraph 1, to take account of in particular the responsibilities of the controller and the processor and, if any, the controller's representative.*

Or. en

#### **Amendment 1911**

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

#### **Proposal for a regulation Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

Or. en

#### **Amendment 1912**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

5. The Commission shall adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the documentation referred to in paragraph 1, to take account of in particular the responsibilities of the

responsibilities of the controller and the processor and, if any, the controller's representative.

controller and the processor and, if any, the controller's representative.

Or. es

#### **Amendment 1913**

**Stanimir Ilchev**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. de

*Justification*

*Dealt with by Article 14.*

#### **Amendment 1914**

**Dimitrios Droutsas**

#### **Proposal for a regulation**

#### **Article 28 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

**Amendment 1915**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 28 – paragraph 6**

*Text proposed by the Commission*

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

*Amendment*

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

Or. es

**Amendment 1916**

**Louis Michel**

**Proposal for a regulation**

**Article 28 – paragraph 6**

*Text proposed by the Commission*

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

*Amendment*

6. **To ensure harmonized requirements within the Union**, the Commission may lay down standard forms for the documentation referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

**Amendment 1917**

**Sophia in 't Veld**

**Proposal for a regulation**

**Article 28 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

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

6. The **European Data Protection Board shall be entrusted with the task of adopting guidelines for the format of the documentation** referred to in **paragraph 1**.

Or. en

#### **Amendment 1918**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation**

#### **Article 29 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

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

Or. es

#### *Justification*

*The wording of the first paragraph should make it clear that, unlike the controller, the processor will be called on where appropriate and not as a general rule.*

#### **Amendment 1919**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation**

#### **Article 29 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

***The controller and the processor and, if any, the representative of the controller, shall make the documentation available, on the basis of a request outlining the reasons for requiring access to the documents, to the supervisory authority.***

Or. en

**Amendment 1920**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 29 – paragraph 2**

*Text proposed by the Commission*

2. In response to the supervisory authority's exercise of its powers under Article 53(2), the controller and the processor shall reply to the supervisory authority within a reasonable period to be specified by the supervisory authority. The reply shall include a description of the measures taken and the results achieved, in response to the remarks of the supervisory authority.

*Amendment*

2. In response to the supervisory authority's exercise of its powers under Article 53(2), the controller, ***either in person or through his representative***, and the processor shall reply to the supervisory authority within a reasonable period to be specified by the supervisory authority. The reply shall include a description of the measures taken and the results achieved, in response to the remarks of the supervisory authority.

Or. es

*Justification*

*A reference is needed to representatives in the case of controllers not established in the Union.*

**Amendment 1921**

**Stanimir Ilchev**

**Proposal for a regulation**

**Article 29 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The controller, his representative and the processor shall make available to the supervisory authority, on request, the documentation referred to in Article 14 or 28 as the case may be.**

Or. de

**Amendment 1922**

**Alexander Alvaro**

**Proposal for a regulation**

**Article 30 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

*Justification*

*Article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.*

**Amendment 1923**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 30 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1924**

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

**Proposal for a regulation**  
**Article 30 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1925**

**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**  
**Article 30 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1926**

**Sarah Ludford**

**Proposal for a regulation**

**Article 30 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. ***Having regard to the state of technological development and the cost of implementation, the controller must*** implement appropriate technical and organisational measures to ensure a level of security ***in relation*** to the processing personal data ***that is appropriate to:***

***(a) the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage as mentioned in Article 5(1)(ea), and***

***(b) the nature and scope of the data to be processed.***

Or. en

*Justification*

*This is better drafting.*

**Amendment 1927**

**Alexander Alvaro**

**Proposal for a regulation**

**Article 30 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Having regard to the state of the art and the cost of implementation, such a security policy shall include:***

***(a) the ability to ensure that the integrity of the personal data is validated;***

***(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of systems and services processing personal data;***

***(c) the ability to restore the availability and access to data in a timely manner in the event of a physical or technical incident that impacts the availability, integrity and confidentiality of information systems and services;***

***(d) in the case of sensitive personal data processing according to Articles 8 and 9, additional security measures to ensure situational awareness of risks and the ability to take preventive, corrective and mitigating action in near real time against vulnerabilities or incidents detected that could pose a risk to the data;***

***(e) a process for regularly testing, assessing and evaluating the effectiveness of security policies, procedures and plans put in place to ensure ongoing effectiveness.***

Or. en

*Justification*

*Promotion of physical data protection and network security.*

**Amendment 1928**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 30 – paragraph 2**

*Text proposed by the Commission*

2. The ***controller and the processor*** shall, ***following an evaluation of the risks, take the measures referred to in paragraph 1 to*** protect personal data against accidental or unlawful destruction ***or*** accidental loss ***and to prevent any unlawful forms of*** processing, ***in particular any unauthorised*** disclosure, ***dissemination or access, or alteration*** of personal data.

*Amendment*

2. The ***measures referred to in paragraph 1*** shall ***at least:***

- (a) ensure that personal data can be accessed only by authorised personnel for legally authorised purposes;***
- (b) protect personal data stored or transmitted*** against accidental or unlawful destruction, accidental loss ***or alteration, and unauthorised or unlawful storage,*** processing, ***access or*** disclosure; ***and***
- (c) ensure the implementation of a security policy with respect to the processing*** of personal data.

Or. en

*Justification*

*The article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.*

**Amendment 1929**  
**Joanna Senyszyn**

**Proposal for a regulation**  
**Article 30 – paragraph 2**

*Text proposed by the Commission*

2. The controller and the processor shall,

*Amendment*

2. The controller and the processor shall,

following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.

following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data. ***Where a controller has carried a data protection impact assessment pursuant to Article 33, the results of this assessment shall be taken into account in the evaluation of the risks.***

Or. en

**Amendment 1930**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 30 – paragraph 2**

*Text proposed by the Commission*

2. The controller and the processor shall, ***following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.***

*Amendment*

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

Or. en

**Amendment 1931**  
**Sarah Ludford**

**Proposal for a regulation**  
**Article 30 – paragraph 2**

*Text proposed by the Commission*

***2. The controller and the processor shall,***

*Amendment*

***2. In complying with the principle as set***

*following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.*

*out at Article 5(1)(ea), a controller must consider any relevant guidance drawn up by the supervisory authority under Article 38.*

Or. en

*Justification*

*Guidance from the national supervisory authorities could be helpful for data controllers in implementing security of processing.*

**Amendment 1932**

**Axel Voss**

**Proposal for a regulation**

**Article 30 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. The legal obligations, as referred to in paragraphs 1 and 2, which would require processing of personal data to the extent strictly necessary for the purposes of ensuring network and information security, constitute a legitimate interest pursued by or on behalf of a data controller or processor, as referred to in Article 6(1)(f).*

Or. en

*Justification*

*Taken from ITRE-Opinion.*

**Amendment 1933**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 30 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The legal obligations, as referred to in paragraphs 1 and 2, which would require processing of personal data to the extent strictly necessary for the purposes of ensuring network and information security, constitute a legitimate interest pursued by, or on behalf of a data controller or processor.***

Or. en

**Amendment 1934**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.***

***deleted***

Or. en

**Amendment 1935**  
**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.** **deleted**

Or. es

*Justification*

*Those concerned must be given adequate margin for manoeuvre in deciding what security measures to adopt in accordance with the specific characteristics of each sector and subsector, without the need for more detailed rules in the form of delegated acts.*

**Amendment 1936**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.** **deleted**

**Amendment 1937**

**Sarah Ludford**

**Proposal for a regulation**

**Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.** **deleted**

Or. en

*Justification*

*The appropriate use of technical and organisational measures to ensure security of processing is an operational function requiring specialist regulatory expertise rather than further legislation.*

**Amendment 1938**

**Dimitrios Droutsas**

**Proposal for a regulation**

**Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures**

**3. The European Data Protection Board shall be entrusted with the task of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including**

referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies, ***in accordance with Article 66.***

Or. en

#### **Amendment 1939**

**Ioan Enciu**

#### **Proposal for a regulation Article 30 – paragraph 3**

*Text proposed by the Commission*

3. The ***Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

*Amendment*

3. The ***European Data Protection Board in cooperation with the European Network and Information Security Agency (ENISA) shall be entrusted with the task*** of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Or. en

#### **Amendment 1940**

**Axel Voss**

#### **Proposal for a regulation Article 30 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:** **deleted**

**(a) prevent any unauthorised access to personal data;**

**(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;**

**(c) ensure the verification of the lawfulness of processing operations.**

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

Or. en

**Amendment 1941**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 30 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:** **deleted**

**a) prevent any unauthorised access to personal data;**

**b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;**

**c) ensure the verification of the lawfulness of processing operations.**

**Those implementing acts shall be adopted in accordance with the examination**

*procedure set out in Article 87(2).*

Or. es

*Justification*

*Those concerned must be given adequate margin for manoeuvre in deciding what security measures to adopt in accordance with the specific characteristics of each sector and subsector, without the need for more detailed rules in the form of delegated acts.*

**Amendment 1942**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 30 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:** *deleted*

**(a) prevent any unauthorised access to personal data;**

**(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;**

**(c) ensure the verification of the lawfulness of processing operations.**

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

Or. en

**Amendment 1943**

**Sarah Ludford**

**Proposal for a regulation**

**Article 30 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:** **deleted**

**(a) prevent any unauthorised access to personal data;**

**(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;**

**(c) ensure the verification of the lawfulness of processing operations.**

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

Or. en

*Justification*

*The appropriate use of technical and organisational measures to ensure security of processing is an operational function requiring specialist regulatory expertise rather than further legislation.*

**Amendment 1944  
Dimitrios Droutsas**

**Proposal for a regulation  
Article 30 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:** **deleted**

**(a) prevent any unauthorised access to personal data;**

**(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or**

*removal of personal data;*

*(c) ensure the verification of the  
lawfulness of processing operations.*

Or. en

#### **Amendment 1945**

**Alexander Alvaro**

#### **Proposal for a regulation**

#### **Article 30 – paragraph 4 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

The Commission ***may adopt, where necessary, implementing acts for*** specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of*** specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

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 1946**

**Alexander Alvaro**

#### **Proposal for a regulation**

#### **Article 30 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

## 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 1947

**Petru Constantin Luhan**

### Proposal for a regulation

#### Article 31 – paragraph 1

##### *Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

##### *Amendment*

1. In the case of a personal data breach, ***when the breach is likely to adversely affect the protection of the personal data or privacy of the data subject***, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. en

### Amendment 1948

**Alexander Alvaro**

### Proposal for a regulation

#### Article 31 – paragraph 1

##### *Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay ***and, where feasible, not later than 24 hours after having become aware of it***, notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24***

##### *Amendment*

1. In the case of a personal data breach, the controller shall without undue delay notify the personal data breach to the supervisory authority.

*hours.*

Or. en

*Justification*

*Article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.*

**Amendment 1949**

**Jan Mulder**

**Proposal for a regulation**

**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, ***where feasible, not later than 24 hours*** after having become aware of it, notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***

*Amendment*

1. In the case of a personal data breach, the controller shall without undue delay and ***as soon as possible***, after having become aware of it, notify the personal data breach to the supervisory authority ***in the member state*** where ***the controller is established***.

Or. en

**Amendment 1950**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the***

*Amendment*

1. In the case of a personal data breach ***such as to constitute a serious risk to personal data privacy, the controller shall without undue delay notify the personal data breach*** to the supervisory authority.

supervisory authority *shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.*

Or. es

#### *Justification*

*The 24-hour deadline set may in many cases be impracticable. The main thing is to establish a reasonable time limit, meaning that it is better simply to use the term ‘without undue delay’. However, this does not preclude a solution such as that proposed by the Article 29 Group, which has suggested a two-step procedure, with immediate or ‘without undue delay’ notification of the existence of a problem, followed by a more detailed report within a longer – but still limited – timescale.*

#### **Amendment 1951** **Michèle Striffler**

#### **Proposal for a regulation** **Article 31 – paragraph 1**

##### *Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

##### *Amendment*

1. In the case of a **major** personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. fr

#### *Justification*

*In order not to overburden the supervisory authorities, a distinction should be drawn between major and minor incidents, on the basis of qualitative and quantitative criteria.*

#### **Amendment 1952** **Nils Torvalds**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

*Amendment*

1. In the case of a personal data breach ***which is likely to adversely affect the data subject and the protection of the personal data of the data subject***, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. en

**Amendment 1953**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. ***In the case of*** a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***

*Amendment*

1. ***Where*** a personal data breach ***is likely to have a significant adverse effect on the interests, rights and freedoms of the data subjects, especially their right to privacy, the controller, after having become aware of it, shall without unreasonable delay notify the personal data breach to the supervisory authority.***

Or. en

*Justification*

*In order to maintain the proportionality between the administrative burden to notify the supervisory authority (and the data subject) and the risk which the personal data breach likely poses to the data subject and to avoid that trifle breaches, which pose little or no harm*

*to data subject, are notified, the amendment limits the scope of the obligation to notify the supervisory authority to personal data breaches which are “likely to have a significant adverse effect on the rights and freedoms of the data subjects, especially their right to privacy”. This risk could be determined by the execution of a risk assessment similar to the privacy impact assessment referred to in Article 33. Pursuant to paragraph 6, the Commission may adopt standards for the determination of such risk, e.g., similar to the standards for notifying product safety issues in the EU. Furthermore, as the priority of the controller in case of a personal data breach should be to address the breach and to limit its consequences, the 24 hour time window for the notification is deleted and replaced by “without unreasonable delay”. It’s up to the supervisory authority to determine whether in a particular case the delay was reasonable. See also amendment to Article 32.*

**Amendment 1954**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **24 hours** after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **24 hours**.

*Amendment*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **72 hours** after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **72 hours**.

Or. en

**Amendment 1955**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory***

*Amendment*

1. In the case of a personal data breach, ***when the breach is likely to adversely affect the protection of the personal data or the privacy of the data subject, the controller shall without undue delay notify***

*authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.*

*the personal data breach to the supervisory authority.*

Or. en

**Amendment 1956**  
**Louis Michel**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, *the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.*

*Amendment*

1. In the case of a personal data breach *which causes or is likely to cause significant adverse effect on the privacy of the data subject, the controller shall after having become aware, fully investigated and confirmed it, without undue delay, notify the personal data breach to the supervisory authority.*

Or. en

**Amendment 1957**  
**Axel Voss, Monika Hohlmeier, Seán Kelly, Renate Sommer, Véronique Mathieu Houillon, Lara Comi, Hubert Pirker, Salvatore Iacolino**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, *the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be*

*Amendment*

1. In the case of a personal data breach *relating to special categories of personal data, personal data which are subject to professional secrecy, personal data relating to criminal offences or to the suspicion of a criminal act or personal data relating to bank or credit card*

*accompanied by a reasoned justification in cases where it is not made within 24 hours.*

*accounts, which seriously threaten the rights or legitimate interests of the data subject, the controller shall without undue delay notify the personal data breach to the supervisory authority.*

Or. en

#### *Justification*

*Taken from ITRE-Opinion.*

#### **Amendment 1958**

**Timothy Kirkhope**

on behalf of the ECR Group

#### **Proposal for a regulation**

#### **Article 31 – paragraph 1**

##### *Text proposed by the Commission*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **24 hours** after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **24 hours**.

##### *Amendment*

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than **10 working days** after having become aware of it, ***or when sufficient and conclusive information regarding the data breach can be obtained, shall*** notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within **10 working days**.

Or. en

#### **Amendment 1959**

**Sarah Ludford**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a personal data breach, ***the controller shall without undue delay and, where feasible, not later than 24 hours*** after having become aware of it, notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***

*Amendment*

1. In the case of a personal data breach ***where there is a significant risk that the personal data breach will adversely affect the rights and freedoms of data subjects,*** ***the controller shall without undue delay*** after having become aware of it, notify the personal data breach to the supervisory authority.

Or. en

*Justification*

*A qualitative threshold of risk is essential to prevent DPAs being overwhelmed.*

**Amendment 1960**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.***

Or. en

### *Justification*

*This amendment clarifies which supervisory authority must be notified. This amendment is especially important in cases where persons in multiple member states are affected by the data breach, as to avoid that the same breach must be notified in multiple member states, thus reducing the administrative burden.*

#### **Amendment 1961**

**Michèle Striffler**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The controller shall keep a list of minor breaches and make that list available to the supervisory authority.***

Or. fr

### *Justification*

*In order not to overburden the supervisory authorities, a distinction should be drawn between major and minor incidents, on the basis of qualitative and quantitative criteria.*

#### **Amendment 1962**

**Axel Voss**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.***

***2. The processor shall alert and inform the controller immediately after the establishment of a personal data breach.***

Or. en

#### **Amendment 1963**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.

*Amendment*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach ***as referred to in paragraph 1.***

Or. es

**Amendment 1964**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller ***immediately*** after the ***establishment*** of a personal data breach.

*Amendment*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller ***without undue delay*** after the ***identification*** of a personal data breach ***that is likely to produce adverse legal effects to the protection of the personal data or the privacy of the data subject.***

Or. en

**Amendment 1965**  
**Timothy Kirkhope**  
on behalf of the ECR Group

**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller ***immediately*** after the establishment of a personal data breach.

*Amendment*

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller ***as a matter of urgency*** after the establishment of a personal data breach.

**Amendment 1966**

**Jan Mulder**

**Proposal for a regulation**

**Article 31 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.***

Or. en

*Justification*

*This amendment clarifies which supervisory authority must be notified. This amendment is especially important in cases where persons in multiple member states are affected by the data breach, as to avoid that the same breach must be notified in multiple member states, thus reducing the administrative burden.*

**Amendment 1967**

**Sarah Ludford**

**Proposal for a regulation**

**Article 31 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In making the risk assessment, the controller should be required to have regard to factors including the nature of***

*the data; whether the breach appears to be likely to cause substantial damage or substantial distress to the data subject or is otherwise likely to significantly prejudice the rights and freedoms of the data subject and the degree to which those risks are mitigated by the security measures which the controller has taken pursuant to Article 30.*

Or. en

*Justification*

*It is helpful to spell out the factors to be taken into account.*

**Amendment 1968**

**Sarah Ludford**

**Proposal for a regulation**

**Article 31 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The notification referred to in paragraph 1 must at least:**

**deleted**

**(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;**

**(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;**

**(c) recommend measures to mitigate the possible adverse effects of the personal data breach;**

**(d) describe the consequences of the personal data breach;**

**(e) describe the measures proposed or taken by the controller to address the personal data breach.**

*Justification*

*This is over-prescriptive.*

**Amendment 1969**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 31 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. The notification *referred to in paragraph 1* must *at least*:

*(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;*

*(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;*

*(c) recommend measures to mitigate the possible adverse effects of the personal data breach;*

*(d) describe the consequences of the personal data breach;*

*(e) describe the measures proposed or taken by the controller to address the personal data breach.*

*Amendment*

3. The notification must *contain the details necessary to enable the supervisory authority to assess the gravity of the incidents and their consequences and, if necessary, recommend that action be taken.*

*Justification*

*It is not necessary to specify in detail the content of notifications, given that this could in practice lead to over-refinement, given the particularities of the various sectors. It should be*

*sufficient that the information be given to the supervisory authority is sufficiently detailed to enable it accurately to assess the nature of the incident and its consequences. To that end, the notification should contain the following essential information: the nature of the incidents, their actual or anticipated consequences and the measures taken or to be taken.*

#### **Amendment 1970**

**Louis Michel**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. The notification referred to in paragraph 1 must ***at least***:

3. The notification referred to in paragraph 1 must ***if possible***:

Or. en

#### **Amendment 1971**

**Louis Michel**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 3 – point b**

*Text proposed by the Commission*

*Amendment*

(b) communicate the ***identity and*** contact details of the ***data protection officer*** or other contact point where more information can be obtained;

(b) communicate the contact details of the ***controller*** or other contact point where more information can be obtained;

Or. en

#### **Amendment 1972**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 3 – point e**

*Text proposed by the Commission*

*Amendment*

(e) describe the measures proposed or taken by the controller to address the

(e) describe the measures proposed or taken by the controller to address the

personal data breach.

personal data breach *and/or mitigate its effects*.

Or. en

**Amendment 1973**

**Louis Michel**

**Proposal for a regulation**

**Article 31 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The notification referred to in paragraph 1 shall not be required if the controller or the processor has implemented appropriate technological measures, which were applied to the data concerned by the personal data breach, such as measures which render the data unintelligible to any person who is not authorised to access it.***

Or. en

**Amendment 1974**

**Sarah Ludford**

**Proposal for a regulation**

**Article 31 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The national supervisory authority should provide guidance under Article 38 on the particular circumstances in which notification to the supervisory authority should take place. Furthermore, the level of detail and the specific information required when a controller notifies the supervisory authority of the data breach should be contained in guidance.***

Or. en

### *Justification*

*The supervisory authority is in the best position to judge the level of detail and particulars which are needed to deal with a personal data breach as effectively as possible.*

#### **Amendment 1975**

**Sarah Ludford**

#### **Proposal for a regulation Article 31 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.**

**deleted**

Or. en

### *Justification*

*This is over-prescriptive.*

#### **Amendment 1976**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation Article 31 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary**

**4. The controller shall document any personal data breaches *referred to in paragraph 1 of this article*, comprising the facts surrounding the breach, its effects and the remedial action taken. *Without prejudice to the above, the controller or, where appropriate, the processor, shall keep records of previous breaches and***

*for that purpose.*

*their consequences not referred to in paragraph 1 but relating to the use of personal data, and make them available to the supervisory authorities which may wish to receive copies thereof on a regular basis.*

Or. es

**Amendment 1977**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 31 – paragraph 4**

*Text proposed by the Commission*

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

*Amendment*

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must ***be sufficient to*** enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

**Amendment 1978**

**Timothy Kirkhope**

on behalf of the ECR Group

**Proposal for a regulation**

**Article 31 – paragraph 4**

*Text proposed by the Commission*

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only

*Amendment*

4. The controller shall document any personal data breaches ***without undue delay when asked to be provided,*** comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance

include the information necessary for that purpose.

with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

#### **Amendment 1979**

**Louis Michel**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 4**

##### *Text proposed by the Commission*

4. The controller shall document **any personal data breaches**, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

##### *Amendment*

4. The controller shall document **data breaches referred to in paragraph 1**, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

#### **Amendment 1980**

**Jan Mulder**

#### **Proposal for a regulation**

#### **Article 31 – paragraph 4 – subparagraph 1 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***In case the controller is part of a group of undertakings or of joint controllers, the personal data breach may be notified by the main establishment, or by another controller or undertaking designated by the joint controllers or group of undertakings.***

Or. en

*Justification*

*This amendment aims at avoiding multiple notifications for the same data breach.*

**Amendment 1981**

**Lidia Joanna Geringer de Oedenberg**

**Proposal for a regulation**

**Article 31 – paragraph 4 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Cases in which it is highly probable that a breach of personal data protection will have a negative impact on the data subject's privacy shall be deemed serious breaches.***

Or. pl

**Amendment 1982**

**Lidia Joanna Geringer de Oedenberg**

**Proposal for a regulation**

**Article 31 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. The supervisory authority should maintain a publicly accessible register of identified and closed serious breaches.***

Or. pl

**Amendment 1983**

**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**

**Article 31 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. The supervisory authority shall keep a public register of the types of breaches***

*notified.*

Or. en

**Amendment 1984**  
**Lidia Joanna Geringer de Oedenberg**

**Proposal for a regulation**  
**Article 31 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***4b. Notification of a breach of personal data protection shall, exceptionally, not be required where the controller has, without delay, implemented appropriate technological measures to safeguard the personal data concerned by the breach, and where such measures ensure that the at-risk data are rendered unintelligible to any person not authorised to access them,***

Or. pl

**Amendment 1985**  
**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 31 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.***

***deleted***

Or. es

## *Justification*

*Delegated acts adopted by the Commission should in this case be limited to establishing a standard format for incident notification and the recording of previous breaches and their consequences.*

### **Amendment 1986**

**Louis Michel**

#### **Proposal for a regulation**

##### **Article 31 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.** **deleted**

Or. en

### **Amendment 1987**

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

#### **Proposal for a regulation**

##### **Article 31 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.** **deleted**

**Amendment 1988**

**Sarah Ludford**

**Proposal for a regulation**

**Article 31 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.***

***deleted***

Or. en

**Amendment 1989**

**Dimitrios Droutsas**

**Proposal for a regulation**

**Article 31 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

5. The Commission shall be empowered to adopt, ***after requesting an opinion of the European Data Protection Board,*** delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

Or. en

**Amendment 1990**  
**Louis Michel**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** *deleted*

Or. en

**Amendment 1991**  
**Sarah Ludford**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** *deleted*

Or. en

**Amendment 1992**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

6. The Commission ***may lay*** down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

*Amendment*

6. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying*** down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein.

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 1993**  
**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may lay down the standard format of ***such notification*** to the supervisory authority, ***the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein.*** Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

*Amendment*

6. The Commission may lay down the standard format of ***notifications*** to the supervisory authority, ***in accordance with paragraph 3, and of the register of breaches and their consequences.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

**Amendment 1994**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

*Amendment*

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted, ***after requesting an opinion of the European Data Protection Board***, in accordance with the examination procedure referred to in Article 87(2).

Or. en

**Amendment 1995**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 31 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the ***notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

*Amendment*

6. The Commission may lay down the standard format of such notification to the supervisory authority ***and*** the procedures applicable to the ***filing of reports***.

**Amendment 1996**

**Sylvie Guillaume, Françoise Castex**

**Proposal for a regulation**

**Article 32 – paragraph 1**

*Text proposed by the Commission*

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject ***without undue delay***.

*Amendment*

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject ***within 24 hours***.

Or. en

**Amendment 1997**

**Timothy Kirkhope**

on behalf of the ECR Group

**Proposal for a regulation**

**Article 32 – paragraph 1**

*Text proposed by the Commission*

1. When the personal data breach is likely to ***adversely*** affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

*Amendment*

1. When the personal data breach is likely to ***have an adverse*** affect ***to the*** protection of the personal data or privacy of the data subject ***with respect to proportionality***, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Or. en

**Amendment 1998**

**Louis Michel**

**Proposal for a regulation**  
**Article 32 – paragraph 1**

*Text proposed by the Commission*

1. When the personal data breach **is** likely to **adversely affect the protection** of the **personal data or privacy** of the **data subject**, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

*Amendment*

1. When the personal data breach **causes or is likely to cause significant adverse effect on the privacy** of the **data subject and minimizing** of the **harm requires action by data subjects**, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay **unless this is disproportionately difficult. When communication to data subjects would risk causing further serious harm to the protection of the personal data or privacy of the data subject, the controller may, after consulting with the supervisory authority, delay communication to data subjects until such risk no longer prevails.**

Or. en

**Amendment 1999**

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

**Proposal for a regulation**  
**Article 32 – paragraph 1**

*Text proposed by the Commission*

1. When the personal data breach is likely to adversely affect the protection of the personal data **or** privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

*Amendment*

1. When the personal data breach is likely to adversely affect the protection of the personal data, **the privacy, the right or the legitimate interests** of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay. **A breach should be considered as adversely affecting the personal data or privacy of a data subject where it could result in, for example, identity theft or fraud, physical harm, significant humiliation or damage to reputation.**

*Justification*

*Taken from ITRE-Committee.*

**Amendment 2000**

**Jens Rohde**

**Proposal for a regulation**

**Article 32 – paragraph 3**

*Text proposed by the Commission*

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

*Amendment*

3. The communication of a personal data breach to the data subject shall not be required if the ***data breach has not produced significant harm to citizens and the*** controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, ***unusable or anonymised*** to any person who is not authorised to access it.

Or. en

**Amendment 2001**

**Louis Michel**

**Proposal for a regulation**

**Article 32 – paragraph 3**

*Text proposed by the Commission*

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that

*Amendment*

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that

those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access *it*.

those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall ***have the purpose to*** render the data unintelligible to any person who is not authorised to access ***them, taking into account the nature of the data, the state of the art and the cost.***

Or. en

#### **Amendment 2002**

**Josef Weidenholzer, Birgit Sippel**

#### **Proposal for a regulation**

#### **Article 32 – paragraph 3**

##### *Text proposed by the Commission*

3. The communication of a personal data breach to the data subject ***shall not be required if*** the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

##### *Amendment*

3. The communication of a personal data breach to the data subject ***can only be delayed if the information could lead to further circulation of the data concerned, and is to be performed after*** the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Or. en

##### *Justification*

*Even after implementation of protection measures, the data subject should know that his or her personal data might be compromised.*

#### **Amendment 2003**

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

**Proposal for a regulation**  
**Article 32 – paragraph 3**

*Text proposed by the Commission*

3. The communication of a personal data breach to the data subject shall not be required if the ***controller demonstrates to the satisfaction of the supervisory authority that it*** has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised ***to*** access it.

*Amendment*

3. The communication of a personal data breach to the data subject shall not be required if the ***data breach has not produced significant harm and the controller*** has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, ***unusable or anonymised*** to any person who is not authorised access ***to*** it.

Or. en

*Justification*

*Taken from ITRE-Opinion.*

**Amendment 2004**  
**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**  
**Article 32 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. If after the implementation of the suggested technological measures another data breach were to occur, the controller shall always be obliged to communicate this without undue delay to the data subject.***

Or. en

**Amendment 2005**  
**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 32 – paragraph 4 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Those concerned shall not be notified in cases where this could clearly obstruct current investigations or hinder or delay measures to resolve the security breach. More detailed provision for such eventualities may be made under EU law and Member State legislation, the objective being at all times to uphold the public interest and comply with the spirit of data protection law.***

Or. es

*Justification*

*It is necessary to provide for some sort of safeguard in cases where notification of any those concerned could compromise investigation of the security breach and/or resolution of the problem.*

**Amendment 2006**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**

**Article 32 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.***

***deleted***

Or. es

### *Justification*

*The powers that this article confers on the Commission exceed the scope of delegated acts. Moreover, further specification of the relevant criteria is not necessary under Article 32, since the correct interpretation thereof must be a matter for the supervisory authority and, in the final analysis, the courts.*

#### **Amendment 2007**

**Timothy Kirkhope**

on behalf of the ECR Group

#### **Proposal for a regulation**

##### **Article 32 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.** **deleted**

Or. en

#### **Amendment 2008**

**Louis Michel**

#### **Proposal for a regulation**

##### **Article 32 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.** **deleted**

Or. en

**Amendment 2009**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 32 – paragraph 5**

*Text proposed by the Commission*

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

*Amendment*

5. The Commission shall be empowered to adopt, ***after requesting an opinion of the European Data Protection Board,*** delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Or. en

**Amendment 2010**  
**Louis Michel**

**Proposal for a regulation**  
**Article 32 – paragraph 6**

*Text proposed by the Commission*

***6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

*Amendment*

***deleted***

Or. en

**Amendment 2011**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 32 – paragraph 6**

*Text proposed by the Commission*

6. The Commission **may lay** down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

*Amendment*

6. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying*** down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication.

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 2012**  
**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 32 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

*Amendment*

6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication, ***with a particular focus on cases affecting large numbers of people.*** Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Or. es

**Amendment 2013**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 32 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

*Amendment*

6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted, ***after requesting an opinion of the European Data Protection Board***, in accordance with the examination procedure referred to in Article 87(2).

Or. en

**Amendment 2014**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Chapter 4 – section 3 – title**

*Text proposed by the Commission*

**DATA PROTECTION *IMPACT***  
***ASSESSMENT AND PRIOR***  
***AUTHORISATION***

*Amendment*

***LIFECYCLE* DATA PROTECTION**  
***MANAGEMENT***

Or. en

*Justification*

*Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.*

**Amendment 2015**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 32 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 32a**

***Communication of a personal data breach  
to other organisations***

***A controller that communicates a personal data breach to a data subject pursuant to Article 32 may notify another organisation, a government institution or a part of a government institution of the personal data breach if that organisation, government institution or part may be able to reduce the risk of the harm that could result from it or mitigate that harm. Such notifications can be done without informing the data subject if the disclosure is made solely for the purposes of reducing the risk of the harm to the data subject that could result from the breach or mitigating that harm.***

Or. en

*Justification*

*In many cases other organisations or government institutions are in a position to be able to assist in mitigating harm that may result to a data subject following a personal data breach if they are made aware of the breach and the circumstances surrounding the breach.*

**Amendment 2016  
Alexander Alvaro**

**Proposal for a regulation  
Article 32 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 32a**

***Data protection risk analysis***

***1. The controller shall carry out a risk analysis with regard to data processing operations, assessing whether at least two of the risk factors referred to under***

*Article 5b(1) to (10) exist.*

*2. Where at least two of the risk factors referred to under Article 5b(1) to (10) exist, the controller or the processor acting on the controller's behalf shall carry out a data protection impact assessment pursuant to Article 33.*

*3. Where less than two of the risk factors referred to under Article 5b(1) to (10) exist, the risk analysis and its findings shall be documented.*

*4. The risk analysis shall be reviewed at the latest after one year, or immediately, if the nature, the scope or the purposes of the data processing operations change significantly.*

Or. en

#### *Justification*

*Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.*

**Amendment 2017**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 1**

*Text proposed by the Commission*

1. Where ***processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes***, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

*Amendment*

1. Where ***required pursuant to Article 32a (2)***, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Or. en

## *Justification*

*Impact assessments should only be necessary, if the results of a risk analysis require it.*

### **Amendment 2018**

**Philippe Juvin**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller ***or the processor acting on the controller's behalf*** shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. ***A single assessment shall be sufficient to address a set of processing operations that present similar risks.***

Or. en

### **Amendment 2019**

**Agustín Díaz de Mera García Consuegra**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf, ***if they have not recruited a data protection officer for their organisation or obtained adequate and valid certification for the processing of high-risk data***, shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

### *Justification*

*This article introduces significant levels of bureaucracy into every stage of the data management procedure, especially bearing in mind that a great many of the players which may be required to carry out these assessments will be enterprises of a certain size that will have a data protection officer.*

#### **Amendment 2020**

**Axel Voss**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller ***or the processor acting on the controller's behalf*** shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

***An impact assessment is not necessary where:***

***(a) the processing is a legal obligation; or***

***(b) a consent of the data subject is given; or***

***(c) Article 6(1)(b) or Article 38a applies.***

#### **Amendment 2021**

**Wim van de Camp**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present

##### *Amendment*

1. Where processing operations ***are likely***

*specific* risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller **or the processor acting on the controller's behalf** shall carry out an assessment of the impact of the envisaged processing operations on the *protection of personal data*.

to present **high degree of** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the **rights and freedoms of the data subjects, especially their right to privacy**.

Or. en

#### *Justification*

*The amendments to Articles 28 and 35 introduce a risk-based approach to the obligation to document data processing operations and the appointment of a data protection officer. Only in case of high risk to the rights and freedoms of the data subject, those obligations are triggered. Therefore, Article 33(1) is amended to reflect those changes. Moreover, unlike the Commission proposed, the assessment should be on the risk to the rights and freedoms of the data subject and not on the personal data, as the risk assessment with respect to the personal data would be part of a security risk assessment to determine the safeguards pursuant to Article 30. Furthermore, given the changes made to paragraph 1, the risk assessment should be performed by the controller and cannot be performed by the processor. Also, any risk is “specific”, but what is important is whether the risk is high. The factor “likely to present” is added as the risks may be mitigated following the conclusions of the PIA. The factor assumes that risks exist irrespective of any mitigation.*

#### **Amendment 2022**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller **or the processor acting on the controller's behalf** shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. **A single assessment shall be sufficient to address a set of processing operations that present similar risks.**

Or. en

### *Justification*

*A new privacy impact assessment should be required only where a process or project poses substantially new or different privacy risks from what has been analyzed in the past. Where a similar process or project has undergone a privacy impact analysis in the past, only those aspects of the process or project that are new or different should be required to be analyzed anew.*

#### **Amendment 2023** **Sarah Ludford**

#### **Proposal for a regulation** **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. ***A single assessment shall be sufficient to address a set of processing operations that present similar risks.***

Or. en

### *Justification*

*Self-explanatory.*

#### **Amendment 2024** **Louis Michel**

#### **Proposal for a regulation** **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their

##### *Amendment*

1. Where processing operations present specific ***high degree of*** risks to the rights and freedoms of data subjects by virtue of

scope or their purposes, ***the controller or the processor acting on the controller's behalf*** shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

their nature, their scope or their purposes ***or when the DPA decides that a privacy impact assessment is necessary, the controller*** shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Or. en

#### **Amendment 2025**

**Cornelia Ernst, Marie-Christine Vergiat**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1**

##### *Text proposed by the Commission*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out ***an*** assessment of the impact of the envisaged processing operations on the protection of personal data.

##### *Amendment*

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out ***a detailed*** assessment of the impact of the envisaged processing operations on the protection of personal data.

Or. en

#### **Amendment 2026**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 1 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***1a. SMEs shall only be required to perform an impact assessment after their 3rd year of incorporation if data processing is deemed as a core activity of their business. That is, where sale or revenue from processing makes up for 50% of the SMEs revenue.***

*Justification*

*Research shows that a majority of SMEs fail within their first three years of operation. Allowing this time period before the impact assessment is required will result in all businesses being given a chance to succeed before facing undue costs.*

**Amendment 2027**  
**Sarah Ludford**

**Proposal for a regulation**  
**Article 33 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Such a requirement shall not apply to:***  
***(a) micro small and medium-sized enterprises that process data only as an activity ancillary to their main activities;***  
***(b) all micro, small and medium-sized enterprises for the first three years after the enterprise was founded.***

*Justification*

*There need to be exemptions for SMES to avoid a disproportionate burden.*

**Amendment 2028**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. The following processing operations in particular present specific risks referred to in paragraph 1:***  
***(a) a systematic and extensive evaluation of personal aspects relating to a natural*** ***deleted***

*person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects concerning the individual or significantly affect the individual;*

*(b) 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, where the data are processed for taking measures or decisions regarding specific individuals on a large scale;*

*(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) on a large scale;*

*(d) personal data in large scale filing systems on children, genetic data or biometric data;*

*(e) other processing operations for which the consultation of the supervisory authority is required pursuant to point (b) of Article 34(2).*

Or. en

#### *Justification*

*Moved to Article 5b (new).*

**Amendment 2029**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The following processing operations ***in particular*** present specific risks referred to

*Amendment*

2. The following processing operations ***are likely to*** present specific ***high degree of***

in paragraph 1:

risks referred to in paragraph 1:

Or. en

#### **Amendment 2030**

**Adina-Ioana Vălean, Jens Rohde**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 2 – point a**

##### *Text proposed by the Commission*

(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects ***concerning the individual or significantly affect the individual;***

##### *Amendment*

(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce ***adverse*** legal effects ***to the privacy of the data subject;***

Or. en

#### **Amendment 2031**

**Axel Voss**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 2 – point a**

##### *Text proposed by the Commission*

(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects concerning the individual or significantly affect the individual;

##### *Amendment*

(a) ***respecting the exceptions of Article 20(2)(c) and Article 21*** a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects concerning the individual or significantly ***negative*** affect the individual;

## Amendment 2032

Louis Michel

### Proposal for a regulation

#### Article 33 – paragraph 2 – point a

##### *Text proposed by the Commission*

(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, **reliability or behaviour**, which is based on automated processing and on which **measures** are based that produce legal effects concerning the individual or **significantly** affect the **individual**;

##### *Amendment*

(a) **taking into account the exceptions of Article 20(2)(c) and the restrictions of Article 21**, a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, **or reliability**, which is **solely** based on automated processing and on which **decisions** are based that produce legal effects concerning the individual or **adversely** affect the **fundamental rights of a data subject in a significantly negative manner**;

## Amendment 2033

Jens Rohde, Adina-Ioana Vălean

### Proposal for a regulation

#### Article 33 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) 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, where the data are processed for taking measures or decisions regarding specific individuals on a large scale;

##### *Amendment*

(b) information on sex life, health, **political opinions, religious beliefs, criminal convictions**, race and ethnic origin or for the provision of health care, epidemiological researches, or surveys of mental or infectious diseases, where the data are processed for taking measures or decisions regarding specific individuals on a large scale;

**Amendment 2034**

**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) 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, where the data are processed for taking measures or decisions regarding specific individuals ***on a large scale***;

*Amendment*

(b) information on sex life, health, race and ethnic origin, ***socio-economic status***, or for the provision of health care, epidemiological researches, or surveys of mental or infectious diseases, where the data are processed for taking measures or decisions regarding specific individuals;

Or. en

**Amendment 2035**

**Wim van de Camp**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

***(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) on a large scale;***

*Amendment*

***deleted***

Or. en

*Justification*

*Video surveillance of public highways and other publicly accessible areas is a generally accepted and effective measure to protect the rights and freedoms of others. There is no reason to restrict the use of this measure by binding video surveillance on the outcome of a data protection impact assessment.*

**Amendment 2036**  
**Jan Mulder**

**Proposal for a regulation**  
**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) on a large scale;***

***deleted***

Or. en

**Amendment 2037**  
**Véronique Mathieu Houillon, Axel Voss**

**Proposal for a regulation**  
**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

***c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) on a large scale;***

***deleted***

Or. fr

**Amendment 2038**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) on a large scale;***

***(c) monitoring publicly accessible areas, involving the use of specific techniques such as facial recognition, or not answering to the reasonable expectations of the general public;***

Or. en

**Amendment 2039**

**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) ***on a large scale***;

*Amendment*

(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) ***or any other sensory devices***;

Or. en

**Amendment 2040**

**Sarah Ludford**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) monitoring publicly accessible areas, ***especially when using optic-electronic devices (video surveillance)*** on a large scale;

*Amendment*

(c) ***automated*** monitoring publicly accessible areas on a large scale;

Or. en

*Justification*

*This needs to be technologically neutral.*

**Amendment 2041**

**Dimitrios Droutsas**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) ***personal data in large scale filing***

*Amendment*

(d) ***processing of special categories of***

*systems on children, genetic data or biometric data;*

*data as referred to in Article 9(1), location data, biometric data, or data on children;*

Or. en

**Amendment 2042**

**Louis Michel**

**Proposal for a regulation**

**Article 33 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) other processing operations for which the consultation of the supervisory authority is required pursuant to point (b) of Article 34(2).*

*deleted*

Or. en

**Amendment 2043**

**Sarah Ludford**

**Proposal for a regulation**

**Article 33 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The supervisory authority shall establish and make public a list of the kind of processing for which a data protection impact assessment would be recommended. The supervisory authority shall communicate those lists to the European Data Protection Board.***

Or. en

*Justification*

*A public list could be useful for data controllers to decide whether a data protection impact assessment is recommended, provided that the requirement is not mandatory.*

**Amendment 2044**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The assessment shall contain at least a general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.**

**deleted**

Or. en

**Amendment 2045**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The assessment shall **contain at least a general** description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

3. The assessment shall **have regard to the entire lifecycle management of personal data from collection to processing to deletion. It shall contain:**

**(a)** a description of the envisaged processing operations;

**(b)** a detailed breakdown of the contexts

*of the processing pursuant to Article 5a(1) to (8);*

*(c) a list of the purposes of the processing and the legitimate interests pursued by the controller;*

*(d) an assessment of the risks to the rights and freedoms of data subjects pursuant to Article 5b(1) to (10);*

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

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

*(g) a comprehensive data inventory, describing which category of data is stored where and how, and why the storage of the data is crucial to the end-user feature;*

*(h) an explanation which data protection by design and default practices pursuant to Article 23 have been implemented;*

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

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

*(k) the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.*

Or. en

## *Justification*

*Parts of Article 28 moved here. Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71b and 71c.*

### **Amendment 2046**

**Sarah Ludford**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 3**

##### *Text proposed by the Commission*

3. The assessment shall contain at least a general description of the envisaged processing operations, ***an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation***, taking into account the rights and legitimate interests of data subjects and other persons concerned.

##### *Amendment*

3. The assessment shall contain at least a general description of the envisaged processing operations, ***assess the likelihood of the processing operation giving rise to harm to the fundamental rights and freedoms of data subjects or any other person, and the seriousness of any such harm, and explain the measures the controller intends to take to mitigate the chance of that harm or its seriousness, including the security measures and other safeguards and mechanisms the controller intends to put in place to ensure protection of personal data in accordance with this Regulation***, taking into account the rights and legitimate interests of data subjects and other persons concerned.

Or. en

## *Justification*

*This is a better approach.*

### **Amendment 2047**

**Philippe Juvin**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 3**

*Text proposed by the Commission*

3. The assessment shall contain at least a general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data ***and to demonstrate compliance with this Regulation***, taking into account the rights and legitimate interests of data subjects and other persons concerned.

*Amendment*

3. The assessment shall contain at least a general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data, taking into account the rights and legitimate interests of data subjects and other persons concerned.

Or. en

**Amendment 2048**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 33 – paragraph 3**

*Text proposed by the Commission*

3. The assessment shall contain at least a ***general*** description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

*Amendment*

3. The assessment shall contain at least a description of

***(a) the envisaged processing operations and their necessity and proportionality in relation to the purpose;***

***(b) an assessment of the risks to the rights and freedoms of data subjects;***

***(c) the measures envisaged to address the risks and minimise the volume of personal***

*data which is processed;*

*(d)* safeguards, security measures and mechanisms to ensure the protection of personal data, *such as pseudonymisation*, and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

Or. en

#### **Amendment 2049**

**Cornelia Ernst, Marie-Christine Vergiat**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 3**

*Text proposed by the Commission*

3. The assessment shall contain at least a **general** description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

*Amendment*

3. The assessment shall contain at least a **systematic and detailed** description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

Or. en

#### **Amendment 2050**

**Axel Voss**

#### **Proposal for a regulation**

#### **Article 33 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. If the controller or the processor has designated a data protection organisation or a data protection officer, he/she should***

*be involved in the impact assessment proceeding.*

Or. en

**Amendment 2051**

**Alexander Alvaro**

**Proposal for a regulation**

**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.*** ***deleted***

Or. en

*Justification*

*In practice impossible and not enforceable.*

**Amendment 2052**

**Axel Voss**

**Proposal for a regulation**

**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.*** ***deleted***

Or. en

**Amendment 2053**  
**Jens Rohde, Adina-Ioana Vălean**

**Proposal for a regulation**  
**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.** **deleted**

Or. en

**Amendment 2054**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.** **deleted**

Or. en

**Amendment 2055**  
**Véronique Mathieu Houillon, Axel Voss**

**Proposal for a regulation**  
**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice** **deleted**

*to the protection of commercial or public interests or the security of the processing operations.*

Or. fr

**Amendment 2056**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

*4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.* *deleted*

Or. en

**Amendment 2057**

**Sarah Ludford**

**Proposal for a regulation**

**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

*4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.* *deleted*

Or. en

**Amendment 2058**

**Cornelia Ernst, Marie-Christine Vergiat**

**Proposal for a regulation**  
**Article 33 – paragraph 4**

*Text proposed by the Commission*

4. The controller shall seek the views of data subjects or their representatives on the intended processing, ***without prejudice to the protection of commercial or public interests or the security of the processing operations.***

*Amendment*

4. The controller shall seek the views of data subjects or their representatives on the intended processing.

Or. en

**Amendment 2059**  
**Cornelia Ernst**

**Proposal for a regulation**  
**Article 33 – paragraph 5**

*Text proposed by the Commission*

***5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.***

***deleted***

*Amendment*

Or. en

**Amendment 2060**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 5**

*Text proposed by the Commission*

***5. Where the controller is a public***

***deleted***

*Amendment*

*authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.*

Or. en

#### *Justification*

*Every data processing where certain risk factors exist, shall without exception be based on a data protection impact assessment. Impact assessments are the essential core of any sustainable data protection framework, making sure that businesses are aware from the outset of all possible consequences of their data processing operations. If impact assessments are thorough, the likelihood of any data breach or privacy-intrusive operation can be fundamentally limited.*

#### **Amendment 2061** **Nils Torvalds**

#### **Proposal for a regulation** **Article 33 – paragraph 5**

##### *Text proposed by the Commission*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

##### *Amendment*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union **or national** law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. en

**Amendment 2062**  
**Claude Moraes, Glenis Willmott**

**Proposal for a regulation**  
**Article 33 – paragraph 5**

*Text proposed by the Commission*

5. Where the controller is a public authority or **body** and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

*Amendment*

5. Where the controller is a public authority or **another body which has been entrusted with a mission of public interest** and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. en

**Amendment 2063**  
**Nathalie Griesbeck**

**Proposal for a regulation**  
**Article 33 – paragraph 5**

*Text proposed by the Commission*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

*Amendment*

5. Where the controller is a public authority or body **or an authority or body responsible for performing a public interest task**, and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. fr

### *Justification*

*Private or quasi-public bodies are sometimes asked to perform public service tasks. This amendment seeks to ensure that such situations are covered.*

#### **Amendment 2064** **Wim van de Camp**

#### **Proposal for a regulation** **Article 33 – paragraph 5**

##### *Text proposed by the Commission*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

##### *Amendment*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union **or Member State** law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. en

### *Justification*

*There is no sufficient reason why public authorities of Member States may only abstain from conducting data protection impact assessments when it concerns processing operations regulated by Union law*

#### **Amendment 2065** **Louis Michel**

#### **Proposal for a regulation** **Article 33 – paragraph 5**

##### *Text proposed by the Commission*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law,

##### *Amendment*

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union **or**

paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

**Member State** law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. en

**Amendment 2066**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. The assessment shall be documented and lay down a schedule for regular periodic data protection compliance reviews pursuant to Article 33a(1).***

Or. en

*Justification*

*Impact assessments can only be of help, if businesses make sure that they are complying with the promises originally laid down in them. Data controllers should therefore conduct periodic data protection compliance reviews demonstrating that the data processing mechanisms in place comply with assurances made in the data protection impact assessment. It should further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects. In addition, in case the review finds compliance inconsistencies, it should highlight these and present recommendations on how to achieve full compliance.*

**Amendment 2067**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***5b. The assessment shall be updated without undue delay, if the results of the data protection compliance review referred to in Article 33a show***

*compliance inconsistencies.*

Or. en

*Justification*

*Impact assessments can only be of help, if businesses make sure that they are complying with the promises originally laid down in them. Data controllers should therefore conduct periodic data protection compliance reviews demonstrating that the data processing mechanisms in place comply with assurances made in the data protection impact assessment. It should further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects. In addition, in case the review finds compliance inconsistencies, it should highlight these and present recommendations on how to achieve full compliance.*

**Amendment 2068**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 5 c (new)**

*Text proposed by the Commission*

*Amendment*

***5c. The controller and the processor and, if any, the controller's representative, shall make the assessment available, on request, to the supervisory authority.***

Or. en

**Amendment 2069**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

***6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the*** ***deleted***

*assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.*

Or. en

**Amendment 2070**

**Sari Essayah**

**Proposal for a regulation**

**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.** **deleted**

Or. en

*Justification*

*There is no need for delegation of powers to this respect.*

**Amendment 2071**

**Axel Voss**

**Proposal for a regulation**

**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.** *deleted*

Or. en

**Amendment 2072**

**Nils Torvalds**

**Proposal for a regulation**

**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.** *deleted*

Or. en

**Amendment 2073**

**Wim van de Camp**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.** **deleted**

Or. en

*Justification*

*There is no reason why the Commission would need delegated acts or implementing acts where Article 33 does not sufficiently regulate the nature of the risks involved, while this is quite feasible.*

**Amendment 2074**

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so,** **deleted**

*the Commission shall consider specific measures for micro, small and medium-sized enterprises.*

Or. es

*Justification*

*Delegated acts are not justified here, since they would be concerned with basic aspects of the regulation itself.*

**Amendment 2075**

**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**

**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.** **deleted**

Or. en

**Amendment 2076**

**Timothy Kirkhope**

on behalf of the ECR Group

**Proposal for a regulation**

**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

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

*adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.*

Or. en

**Amendment 2077**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

*6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.*      *deleted*

Or. en

**Amendment 2078**  
**Sarah Ludford**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.**

**deleted**

Or. en

**Amendment 2079**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. The Commission shall *be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.*

6. The Commission shall *encourage, in particular at the European level, the establishment of common criteria for determining the level of risk of the processing operations as well as the execution of privacy impact assessments, taking into account the specific features of the various sectors, the size of the controller, the nature of the data, the consequences of the processing for the data subjects and the nature of the processing operations.*

Or. en

*Justification*

*As data processing operations may differ from sector to sector and from organisation to*

*organisation, a lot of flexibility is needed with regard to the way privacy impact assessments are performed. However, in order to ensure that the PIAs in the various sectors and organisations are comparable with respect to their quality (especially in view of the amendments to Articles 28 and 35), the Commission should encourage the development of standards rather than have the power to adopt delegated acts. Standards may be developed as part of self-regulation in sectors or organisations, and the Commission should provide guidance as to the criteria for PIAs.*

**Amendment 2080**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

*Amendment*

6. The Commission shall be empowered to adopt, ***after requesting an opinion of the European Data Protection Board,*** delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment, referred to in paragraph 3, including conditions ***and procedures*** for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Or. en

**Amendment 2081**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

***7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those***

*Amendment*

***deleted***

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

Or. en

**Amendment 2082**

**Sari Essayah**

**Proposal for a regulation**

**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** *deleted*

Or. en

**Amendment 2083**

**Nils Torvalds**

**Proposal for a regulation**

**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** *deleted*

Or. en

**Amendment 2084**  
**Wim van de Camp**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** **deleted**

Or. en

*Justification*

*There is no reason why the Commission would need delegated acts or implementing acts where Article 33 does not sufficiently regulate the nature of the risks involved, while this is quite feasible.*

**Amendment 2085**  
**Dimitrios Droutsas**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** **deleted**

Or. en

**Amendment 2086**  
**Adina-Ioana Vălean, Jens Rohde**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** **deleted**

Or. en

**Amendment 2087**  
**Louis Michel**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).** **deleted**

Or. en

**Amendment 2088**  
**Sarah Ludford**

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment** **deleted**

*referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*

Or. en

**Amendment 2089**  
**Timothy Kirkhope**  
on behalf of the ECR Group

**Proposal for a regulation**  
**Article 33 – paragraph 7**

*Text proposed by the Commission*

7. The **Commission** may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

*Amendment*

7. The ***European Data Protection Board in contact with the Supervisory Authority*** may specify standards and procedures ***and guidance*** for carrying out and verifying and auditing the assessment referred to in paragraph 3.

Or. en

**Amendment 2090**  
**Alexander Alvaro**

**Proposal for a regulation**  
**Article 33 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 33a***

***Data protection compliance review***

***1. At the latest two years after the carrying out of an impact assessment pursuant to Article 33(1), the controller or the processor acting on the controller's behalf shall carry out a compliance review. This compliance review shall demonstrate that the processing of personal data is performed in compliance with the data***

*protection impact assessment. It shall further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects in accordance with Article 23a.*

*2. The compliance review shall be carried out periodically at least once every two years, or immediately when there is a change in the specific risks presented by the processing operations.*

*3. Where the compliance review results show compliance inconsistencies, the compliance review shall include recommendations on how to achieve full compliance.*

*4. The compliance review and its recommendations shall be documented. The controller and the processor and, if any, the controller's representative, shall make the compliance review available, on request, to the supervisory authority.*

Or. en

#### *Justification*

*Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.*