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Committee on Civil Liberties, Justice and Home Affairs

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AMENDMENTS (9) 2618 - 2950

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

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

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

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Amendment 2618
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***Each*** supervisory authority shall have the power:

Amendment

1. ***The competent*** supervisory authority shall have the power:

Or. en

Amendment 2619
Axel Voss

Proposal for a regulation
Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***Each*** supervisory authority shall have the power:

Amendment

1. ***Pursuant to Article 51 the competent*** supervisory authority shall have the power:

Or. en

Amendment 2620
Louis Michel

Proposal for a regulation
Article 53 – paragraph 1 – point a

Text proposed by the Commission

(a) to notify the controller or the processor of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, order the controller or the processor to remedy that breach, in a specific manner, in order to improve the protection of the data subject;

Amendment

(a) to notify the controller or the processor of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, order the controller or the processor to remedy that breach, in a specific manner, in order to improve the protection of the data subject ***or, where necessary, oblige the controller to communicate the personal data breach to the data subject;***

Or. en

Amendment 2621

Axel Voss

Proposal for a regulation

Article 53 – paragraph 1 – point d

Text proposed by the Commission

(d) to ensure the compliance with **prior authorisations and** prior consultations referred to in Article 34;

Amendment

(d) to ensure the compliance with prior consultations referred to in Article 34;

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2622

Alexander Alvaro

Proposal for a regulation

Article 53 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) to certify controllers and processors pursuant to Article 39;

Or. en

Amendment 2623

Dimitrios Droutsas

Proposal for a regulation

Article 53 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) to certify controllers and processors pursuant to Article 39;

Or. en

Amendment 2624

Axel Voss

Proposal for a regulation

Article 53 – paragraph 1 – point j a (new)

Text proposed by the Commission

Amendment

(ja) to inform the controller and/or the processor of the judicial remedies available against its decision.

Or. en

Justification

Taken from ITRE opinion.

Amendment 2625

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

Proposal for a regulation

Article 53 – paragraph 1 – point j a (new)

Text proposed by the Commission

Amendment

(ja) to carry out audits or draw up audit plans on personal data protection

Or. es

Amendment 2626

Alexander Alvaro

Proposal for a regulation

Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Each supervisory authority shall have the investigative power to obtain from the controller or the processor ***without prior notice***:

Or. en

Justification

The power to investigate data controllers and processors without prior notice should enhance the role of the supervisory authority.

Amendment 2627

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment

The competent supervisory authority shall have the investigative power to obtain from the controller or the processor:

Or. en

Amendment 2628

Axel Voss

Proposal for a regulation

Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment

Pursuant to Article 51 the competent supervisory authority shall have the investigative power to obtain from the controller or the processor:

Or. en

Amendment 2629

Sophia in 't Veld

Proposal for a regulation

Article 53 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) access to all personal data and to all information necessary for the performance of its duties;

Amendment

(a) access to all personal data and to all ***documents and*** information necessary for the performance of its duties;

Amendment 2630
Jan Philipp Albrecht

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) access to any of its premises, including to any data processing equipment and means, ***where there are reasonable grounds for presuming that an activity in violation of this Regulation is being carried out there.***

Amendment

(b) access to any of its premises, including to any data processing equipment and means.

Or. en

Justification

Without the deletion, data controllers could avoid on-site inspections by challenging the existence of “reasonable grounds”. In such cases, inspections could only take place after a court decision, and in the meantime, evidence could be destroyed.

Amendment 2631
Josef Weidenholzer

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) access to any of its premises, including to any data processing equipment and means, ***where there are reasonable grounds for presuming that an activity in violation of this Regulation is being carried out there.***

Amendment

(b) access to any of its premises, including to any data processing equipment and means.

Or. en

Amendment 2632
Kinga Gál

Proposal for a regulation
Article 53 – paragraph 3

Text proposed by the Commission

3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to **Article 74(4) and Article 75(2)**.

Amendment

3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 75(2).

Or. hu

Amendment 2633
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 3

Text proposed by the Commission

3. **Each** supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Amendment

3. **The competent** supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Or. en

Amendment 2634
Axel Voss

Proposal for a regulation
Article 53 – paragraph 3

Text proposed by the Commission

3. **Each** supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Amendment

3. **Pursuant to Article 51 the competent** supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Or. en

Amendment 2635
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 4

Text proposed by the Commission

4. ***Each*** supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Amendment

4. ***The competent*** supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Or. en

Amendment 2636
Axel Voss

Proposal for a regulation
Article 53 – paragraph 4

Text proposed by the Commission

4. ***Each*** supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Amendment

4. ***Pursuant to Article 51 the competent*** supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Or. en

Amendment 2637
Cornelia Ernst

Proposal for a regulation
Article 53 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. A supervisory authority shall pay a reward to an informant who provides information concerning allegations of unlawful processing, amounting to twenty percent of any fine imposed under paragraph 4 which results from investigation of the information received. The procedures for payment shall protect

the identity of the informant from disclosure, and make provision for payment to anonymous informants.

Or. en

Amendment 2638

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

Proposal for a regulation

Article 54

Text proposed by the Commission

Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the ***national*** parliament and shall be made be available to the public, the Commission and the European Data Protection Board.

Amendment

Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the ***respective*** parliament ***and/or to the other authorities stipulated in the relevant national legislation*** and shall be made be available to the public, the Commission and the European Data Protection Board.

Or. es

Amendment 2639

Dimitrios Droutsas

Proposal for a regulation

Article 54

Text proposed by the Commission

Each supervisory authority must draw up ***an annual*** report on its activities. The report shall be presented to the national parliament and shall be made be available to the public, the Commission and the European Data Protection Board.

Amendment

Each supervisory authority must draw up ***a*** report on its activities ***at least every two years***. The report shall be presented to the national parliament and shall be made be available to the public, the Commission and the European Data Protection Board.

Or. en

Amendment 2640

Dimitrios Droutsas

Proposal for a regulation
Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54a

Lead Authority

1. Where the processing of personal data takes place in the context of the activities of an establishment of a controller or a processor in the Union, and the controller or processor is established in more than one Member State, or where personal data of the residents in several Member States are processed, the supervisory authority of the main establishment of the controller or processor shall act as a single contact point for the controller or processor.

2. The lead authority shall ensure coordination with the authorities involved at any stage of supervisory proceedings against a controller or a processor within the meaning of paragraph 1. For that purpose it shall in particular submit any relevant information and consult the other authorities before it adopts a measure intended to produce legal effects vis-à-vis a controller or a processor within the meaning of paragraph 1.

3. Where the controller is not established in the Union, and residents in different Member States are affected by processing operations within the scope of this Regulation, the supervisory authorities of the Member States concerned shall designate the supervisory authority that will act as a single contact point for the controller or processor.

Or. en

Amendment 2641
Axel Voss

Proposal for a regulation
Article 54 a (new)

Article 54a

Lead authority and consistency

1. The following procedure shall be used where a data subject complains of a violation of his or her rights under this regulation in connection with the processing of personal data, or where the consistent application of this regulation needs to be ensured in accordance with Article 46:

(a) Where a data subject is involved: the data subject's relevant supervisory authority shall be the lead authority;

(b) Where no data subject is involved: Where the processing of personal data takes place in the context of the activities of an establishment of a controller or a processor in the Union, and the controller or processor is established in more than one Member State, or where personal data relating to persons resident in several Member States are being processed, the supervisory authority of the Member State in which the controller or processor has its main establishment shall be the sole contact point for the controller or processor and shall be the lead authority.

2. The lead authority shall see to coordination with the other supervisory authorities involved at every stage of the supervisory procedure. To that end it shall pass on all relevant information and shall consult the other supervisory authorities involved before taking any measures with legal consequences. The lead authority shall give full consideration to the opinions of the supervisory authorities involved. The lead authority shall also involve the Commission at all stages of the supervisory procedure.

If the supervisory authorities involved, headed by the lead authority, together with the Commission, have found a common solution within four weeks, this

solution shall be adopted without the European Data Protection Board needing to consider the matter. The data subject, the controller or the processor shall have available to them all the legal remedies set out in this regulation and all other remedies of general application.

If the supervisory authorities involved, headed by the lead authority together with the Commission, have not found a common solution within four weeks, the matter shall be submitted to the European Data Protection Board. To that end the lead authority shall take the necessary steps in accordance with this regulation.

3. If the European Data Protection Board, together with the Commission, has found a common solution within eight weeks, this solution shall be adopted. The data subject, the controller or the processor shall have available to them all the legal remedies set out in this regulation and all other remedies of general application.

If the European Data Protection Board, together with the Commission, has not found a common solution within eight weeks, the Commission shall be empowered and required to propose within a further four weeks a solution in the framework of a delegated act, taking into consideration the opinion of the European Data Protection Board. If it does not do so, all those involved, including the legislator, shall have available to them all the legal remedies set out in this regulation and all other remedies of general application; this concerns in particular the data subject, the data controller and the processor.

4. If Parliament or the Council object to the substance of the delegated act using the procedure laid down for that purpose, the Commission shall launch a legislative initiative using the procedure laid down for that purpose. All those involved shall have available to them all the legal remedies set out in this regulation and all

other remedies of general application; this concerns in particular the data subject, the data controller and the processor.

Or. de

Amendment 2642
Carmen Romero López

Proposal for a regulation
Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54(a)

Lead authority

1. In the event of complaints, investigations or other supervisory activities pertaining to the processing of personal data, as part of the activities of a controller or processor established in more than one Member State, or if such data processing affects persons in more than one Member State, the supervisory authority concerned shall inform any other supervisory authorities concerned before initiating any procedure. Any of these supervisory authorities may request further information, cooperation with the reporting authority under the terms laid down in Articles 55 and 56 or coordinated action between all the supervisory authorities concerned under the terms laid down in paragraph 3.

2. The supervisory authority concerned shall provide the other authorities concerned with a draft measure or any other relevant information, including a summary of the facts and a legal report, before adopting a measure to close an open procedure in respect of complaints, investigations or other supervisory activities and which have legal effects on controllers, processors or data subjects.

3. In the event that a supervisory authority concerned requests coordinated

action between all the supervisory authorities concerned, the supervisory authority of the Member State in which the main establishment of the controller or processor is located shall be the lead authority and shall act, with their accord, on behalf of the supervisory authorities concerned at all stages of the supervisory procedures.

To that end, the lead authority must, inter alia, submit draft measures to the other supervisory authorities concerned.

4. If any of the supervisory authorities concerned expresses its opposition to the proposed draft measures within three weeks of their submission the matter will be referred to the European Data Protection Board under the terms of Article 58.

5. If none of the supervisory authorities expresses its opposition, the proposed measure shall be adopted by all the supervisory authorities concerned and applied at national level.

6. In the event that the lead authority fails to act within one month of receiving a request from one or more of the supervisory authorities concerned, the requesting supervisory authorities shall be competent to take provisional measures, and shall refer the matter to the European Data Protection Board as per the procedure laid down in Article 58.

Or. es

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2643
Alexander Alvaro

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior **authorisations and** consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Or. en

Justification

Deletion is consequence of amendment of Article 34.

Amendment 2644
Axel Voss

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out

prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations. ***The leading supervisory authority according to Article 51(2) ensures the coordination with the relevant authorities involved and acts as central contact point for the controller and processor.***

Or. en

Amendment 2645

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior ***authorisations and*** consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to ***be affected by processing operations.***

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to ***cause legal effects to the detriment of the data subjects.***

Or. en

Amendment 2646

Dimitrios Droutsas

Proposal for a regulation Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where ***the controller or processor has establishments in several Member States or where*** data subjects in several Member States are likely to be affected by processing operations. ***The lead authority as defined in Article 54a shall ensure the coordination with involved supervisory authorities and shall act as the single contact point for the controller or processor.***

Or. en

Amendment 2647

Axel Voss

Proposal for a regulation

Article 55 – paragraph 2

Text proposed by the Commission

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. ***Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.***

Amendment

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request.

Amendment 2648**Adina-Ioana Vălean, Jens Rohde****Proposal for a regulation****Article 55 – paragraph 2***Text proposed by the Commission*

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations ***that have been proven*** contrary to this Regulation.

Amendment 2649**Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio****Proposal for a regulation****Article 55 – paragraph 2***Text proposed by the Commission*

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than ***one month*** after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than ***15 days*** after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment 2650

Axel Voss

Proposal for a regulation

Article 55 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. In cases covered by Article 55(4), the admissibility of the measure to which the request for assistance relates shall be determined in accordance with the law of the requesting authority; the lawfulness of providing assistance shall be determined in accordance with the law of the requested authority;

Or. de

Amendment 2651

Axel Voss

Proposal for a regulation

Article 55 – paragraph 6

Text proposed by the Commission

Amendment

6. Supervisory authorities shall supply the information requested by other supervisory authorities by electronic means and within the shortest possible period of time, using a standardised format.

6. Supervisory authorities shall supply the information requested by other supervisory authorities by electronic means and within the shortest possible period of time, using a standardised format. ***Both the request and the electronic transfer of information shall be made using the Internal Market Information System.***

Or. de

Amendment 2652

Axel Voss

Proposal for a regulation

Article 55 – paragraph 7

Text proposed by the Commission

Amendment

7. No fee shall be charged for any action

7. No fee shall be charged ***to the***

taken following a request for mutual assistance.

requesting supervisory authority for any action taken following a request for mutual assistance.

Or. de

Amendment 2653

Axel Voss

Proposal for a regulation

Article 55 – paragraph 8

Text proposed by the Commission

8. Where a supervisory authority does not act within one month on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.

Amendment

8. Where a supervisory authority does not act within one month *of the time limit referred to in paragraph 2* on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57. *Where no definitive measure is yet possible because the assistance is not yet completed, the requesting supervisory authority may take interim measures under Article 53 in the territory of its Member State.*

Or. de

Amendment 2654

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

Proposal for a regulation

Article 55 – paragraph 8

Text proposed by the Commission

8. Where a supervisory authority does not act within *one month* on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the

Amendment

8. Where a supervisory authority does not act within *15 days* on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the

territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.

territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.

Or. es

Amendment 2655
Axel Voss

Proposal for a regulation
Article 55 – paragraph 10

Text proposed by the Commission

Amendment

10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

deleted

Or. en

Amendment 2656
Alexander Alvaro

Proposal for a regulation
Article 55 – paragraph 10

Text proposed by the Commission

Amendment

10. The Commission ***may specify*** the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European

10. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying*** the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between

Data Protection Board, in particular the standardised format referred to in paragraph 6. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6.

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 2657 Dimitrios Droutsas

Proposal for a regulation Article 55 – paragraph 10

Text proposed by the Commission

10. The ***Commission*** may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***

Amendment

10. The ***European Data Protection Board*** may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6.

Or. en

Amendment 2658 Frank Engel

Proposal for a regulation Article 56 – paragraph 2

Text proposed by the Commission

2. In cases where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall ***invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and*** respond to the request of a supervisory authority to participate in the operations without delay.

Amendment

2. In cases where data subjects in several Member States are likely to be ***adversely*** affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall respond to the request of a supervisory authority to participate in the operations without delay.

Or. en

Amendment 2659
Dimitrios Droutsas

Proposal for a regulation
Article 56 – paragraph 2

Text proposed by the Commission

2. In cases where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The ***competent supervisory authority*** shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay.

Amendment

2. In cases where ***the controller or processor has establishments in several Member States or where*** data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The ***lead authority as defined in Article 54a*** shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay. ***The lead authority shall act as the single contact point for the controller or processor.***

Or. en

Amendment 2660

Axel Voss

Proposal for a regulation

Article 56 – paragraph 4

Text proposed by the Commission

4. Supervisory authorities shall lay down the practical aspects of specific co-operation actions.

Amendment

4. Supervisory authorities shall lay down the practical aspects of specific co-operation actions ***in their rules of procedure. The rules of procedures shall be made public in the Official Journal of the European Union.***

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2661

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

Proposal for a regulation

Article 56 – paragraph 5

Text proposed by the Commission

5. Where a supervisory authority does not comply within ***one month*** with the obligation laid down in paragraph 2, the other supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1).

Amendment

5. Where a supervisory authority does not comply within ***15 days*** with the obligation laid down in paragraph 2, the other supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1).

Or. es

Amendment 2662

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 58 – paragraph 1

Text proposed by the Commission

1. Before **a** supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Amendment

1. Before **the competent** supervisory authority adopts a measure referred to in paragraph 2, this **competent** supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Or. en

Amendment 2663

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 58 – paragraph 1

Text proposed by the Commission

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board **and the Commission**.

Amendment

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board.

Or. en

Amendment 2664

Axel Voss

Proposal for a regulation

Article 58 – paragraph 1

Text proposed by the Commission

1. Before **a** supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Amendment

1. Before **the competent** supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Or. en

Amendment 2665

Frank Engel

Proposal for a regulation

Article 58 – paragraph 2 – point a

Text proposed by the Commission

(a) relates to processing activities which are related to the offering of goods or services *to* data subjects in several Member States, *or to the monitoring of their behaviour*; or

Amendment

(a) relates to processing activities *of personal data* which are related to the offering of goods or services *specifically targeted at* data subjects in several Member States, *in accordance of Article 3 (2) and where the controller has not designated a representative in the Union*; or

Or. en

Amendment 2666

Axel Voss

Proposal for a regulation

Article 58 – paragraph 2 – point a

Text proposed by the Commission

(a) relates to processing activities which are related to the offering of goods or services to data subjects in several Member States, *or to the monitoring of their behaviour*; or

Amendment

(a) relates to processing activities *of personal data* which are related to the offering of goods or services to data subjects in several Member States *when the controller or processor outside of the Union does not name a representative in the territory of the Union*;

Or. en

Justification

Taken from ITRE-opinion with some changes.

Amendment 2667

Frank Engel

Proposal for a regulation

Article 58 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) aims at adopting a list of the processing operations subject to prior consultation pursuant to Article 34(5); or

deleted

Or. en

Amendment 2668

Axel Voss

Proposal for a regulation

Article 58 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) aims to approve binding corporate rules within the meaning of **Article 43**.

(f) aims to approve binding corporate rules within the meaning of **Article 38b**.

Or. en

Amendment 2669

Axel Voss

Proposal for a regulation

Article 58 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) permits processing for research purposes in accordance with Article 81(3) and/or Article 83(3).

Or. en

Justification

Taken from ITRE opinion.

Amendment 2670

Dimitrios Droutsas

Proposal for a regulation

Article 58 – paragraph 3

Text proposed by the Commission

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, ***or where a competent supervisory authority does not agree with the draft measure proposed by the lead authority.***

Or. en

Amendment 2671

Axel Voss

Proposal for a regulation

Article 58 – paragraph 3

Text proposed by the Commission

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where ***a supervisory*** authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where ***the competent*** authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2672

Carmen Romero López

Proposal for a regulation
Article 58 – paragraph 3

Text proposed by the Commission

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, ***or where a supervisory authority concerned opposes a draft measure proposed by another supervisory authority concerned or by the lead authority, as per the provisions of Article 54(a).***

Or. es

Justification

Amendment proposed for reasons of consistency with the proposed Article 54a (new).

Amendment 2673
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 58 – paragraph 4

Text proposed by the Commission

4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter shall be dealt with in the consistency mechanism.

Amendment

4. In order to ensure correct and consistent application of this Regulation, the Commission may, ***acting on its own behalf, and shall at the request of a stakeholder,*** request that any matter shall be dealt with in the consistency mechanism.

Or. en

Justification

When there are inconsistencies with regards to the application of the Regulation which threaten the harmonized implementation and effect specific stakeholders, the affected stakeholders should be given the right to bring their concerns into the consistency mechanism.

Amendment 2674

Axel Voss

Proposal for a regulation

Article 58 – paragraph 4

Text proposed by the Commission

4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter shall be dealt with in the consistency mechanism.

Amendment

4. In order to ensure correct and consistent application of this Regulation, the Commission may, ***acting on its own behalf, and shall at the request of a stakeholder***, request that any matter shall be dealt with in the consistency mechanism.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2675

Axel Voss

Proposal for a regulation

Article 58 – paragraph 6

Text proposed by the Commission

6. The chair of the European Data Protection Board shall ***immediately*** electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it, using a standardised format. The chair of the European Data Protection Board shall provide translations of relevant

Amendment

6. The chair of the European Data Protection Board shall ***without undue delay*** electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it, using a standardised format. The chair of the European Data Protection Board shall provide translations of relevant

information, where necessary.

information, where necessary.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2676

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

Proposal for a regulation

Article 58 – paragraph 7

Text proposed by the Commission

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or ***any supervisory authority or*** the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Amendment

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Or. es

Amendment 2677

Dimitrios Droutsas

Proposal for a regulation

Article 58 – paragraph 7

Text proposed by the Commission

7. The European Data Protection Board

Amendment

7. The European Data Protection Board

shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within **one week** after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within **one month** by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within **two weeks** after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within **six weeks** by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Or. en

Amendment 2678
Louis Michel

Proposal for a regulation
Article 58 – paragraph 7

Text proposed by the Commission

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within **one** week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within **one** month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory **authority** competent under Article 51 of the opinion and make it public.

Amendment

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within **two** week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within **two** month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory **authorities** competent under Article 51 of the opinion and make it public.

Or. en

Amendment 2679
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment

8. The **competent** supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Or. en

Amendment 2680
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the **opinion** of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take **the utmost** account of the **opinions** of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment 2681**Axel Voss****Proposal for a regulation****Article 58 – paragraph 8***Text proposed by the Commission*

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment

8. The **competent** supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Or. en

Amendment 2682**Louis Michel****Proposal for a regulation****Article 58 – paragraph 8***Text proposed by the Commission*

8. The supervisory authority referred to in paragraph 1 and the supervisory **authority** competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the

Amendment

8. The supervisory authority referred to in paragraph 1 and the supervisory **authorities** competent under Article 51 **(1)** shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the

amended draft measure, using a standardised format.

amended draft measure, using a standardised format.

Or. en

Amendment 2683
Monika Hohlmeier

Proposal for a regulation
Article 58 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Where the Commission intends to initiate treaty infringement proceedings in respect of the action taken against the Member State of the competent supervisory authority, it shall first give the European Data Protection Board the opportunity to issue its opinion and shall inform it about the progress of the procedure. The Member State shall give the competent supervisory authority the opportunity to state its opinion at any stage of the infringement proceedings.

Or. de

Amendment 2684
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Where the lead authority pursuant to Article 54a intends not to follow the opinion of the European Data Protection Board, it shall inform the European Data Protection Board thereof in writing within one month and provide a reasoned justification.

Or. en

Amendment 2685
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8b. In a case where the European Data Protection Board still objects to the measure of the supervisory authority as referred to in paragraph 9, it may inform the Commission and invite it to submit a reasoned recommendation to the lead authority.

Or. en

Amendment 2686
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 59

Text proposed by the Commission

Amendment

Article 59

deleted

Opinion by the Commission

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission's opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

3. During the period referred to in paragraph 1, the draft measure shall not

be adopted by the supervisory authority.

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the draft measure shall not be adopted for one further month.

Or. en

Amendment 2687

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

Proposal for a regulation

Article 59 – paragraph 1

Text proposed by the Commission

Amendment

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.

deleted

Or. es

Amendment 2688

Dimitrios Droutsas

Proposal for a regulation

Article 59 – paragraph 1

Text proposed by the Commission

Amendment

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to

deleted

Articles 58 or 61.

Or. en

Amendment 2689

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

Proposal for a regulation

Article 59 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission's opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure. *deleted*

Or. es

Amendment 2690

Dimitrios Droutsas

Proposal for a regulation

Article 59 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission's opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure. *deleted*

Or. en

Amendment 2691

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 59 – paragraph 3

Text proposed by the Commission

Amendment

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

deleted

Or. es

Amendment 2692
Dimitrios Droutsas

Proposal for a regulation
Article 59 – paragraph 3

Text proposed by the Commission

Amendment

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

deleted

Or. en

Amendment 2693
Louis Michel

Proposal for a regulation
Article 59 – paragraph 3

Text proposed by the Commission

Amendment

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

deleted

Or. en

Amendment 2694
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 59 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the draft measure shall not be adopted for one further month.

deleted

Or. es

**Amendment 2695
Dimitrios Droutsas**

**Proposal for a regulation
Article 59 – paragraph 4**

Text proposed by the Commission

Amendment

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the draft measure shall not be adopted for one further month.

deleted

Or. en

**Amendment 2696
Alexander Alvaro**

**Proposal for a regulation
Article 59 – paragraph 4**

Text proposed by the Commission

Amendment

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data

Protection Board thereof within the period referred to in paragraph 1 and provide a justification. ***In this case the draft measure shall not be adopted for one further month.***

Protection Board thereof within the period referred to in paragraph 1 and provide a justification.

Or. en

Justification

The additional requirement to hold back the adoption for one further month does not seem justified nor necessary.

Amendment 2697

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 59 – paragraph 4

Text proposed by the Commission

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. ***In this case the draft measure shall not be adopted for one further month.***

Amendment

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification.

Or. en

Amendment 2698

Louis Michel

Proposal for a regulation

Article 59 – paragraph 4

Text proposed by the Commission

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within ***the period***

Amendment

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within ***one month***

referred to in paragraph 1 and provide a justification. ***In this case the draft measure shall not be adopted for one further month.***

and provide a ***reasoned*** justification. ***This reasoned justification shall be made publicly available.***

Or. en

Amendment 2699
Louis Michel

Proposal for a regulation
Article 59 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take the utmost account of the Commission's opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

Or. en

Amendment 2700
Dimitrios Droutsas

Proposal for a regulation
Article 60

Text proposed by the Commission

Amendment

Article 60

deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the

adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Or. en

Amendment 2701
Louis Michel

Proposal for a regulation
Article 60

Text proposed by the Commission

Amendment

Article 60

deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Or. en

Amendment 2702

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 60

Text proposed by the Commission

Amendment

Article 60

deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Or. en

Amendment 2703

Sarah Ludford

Proposal for a regulation

Article 60

Text proposed by the Commission

Amendment

Article 60

deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall

not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Or. en

Justification

It is not appropriate for the European Commission to have the authority to suspend the draft measure.

Amendment 2704

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 60

Text proposed by the Commission

Amendment

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

deleted

a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; o

b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in

paragraph 2, the supervisory authority may not adopt the draft measure.

Or. es

Amendment 2705

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 60 – paragraph 1

Text proposed by the Commission

Amendment

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

deleted

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Or. en

Amendment 2706
Monika Hohlmeier

Proposal for a regulation
Article 60 – paragraph 1 – introductory part

Text proposed by the Commission

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation ***or would otherwise result in its inconsistent application***, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

Amendment

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

Or. de

Amendment 2707
Monika Hohlmeier

Proposal for a regulation
Article 60 – paragraph 1 – point a

Text proposed by the Commission

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

Amendment

(a) reconcile the ***widely*** diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

Or. de

Amendment 2708
Monika Hohlmeier

Proposal for a regulation
Article 60 – paragraph 2

Text proposed by the Commission

2. The Commission shall specify the duration of the suspension which shall not exceed **12 months**.

Amendment

2. The Commission shall specify the duration of the suspension which shall not exceed **8 weeks**.

Or. de

Amendment 2709
Monika Hohlmeier

Proposal for a regulation
Article 60 a (new)

Text proposed by the Commission

Amendment

Article 60a

Notification of Parliament and Council

The Commission shall notify the Council and the European Parliament at regular intervals, at least every six months, on the basis of a report from the Chair of the European Data Protection Board, of the matters dealt with under the consistency procedure, setting out the conclusions drawn by the Commission and the European Data Protection Board with a view to ensuring the consistent implementation and application of this regulation.

Or. de

Amendment 2710
Alexander Alvaro

Proposal for a regulation
Article 61 – paragraph 1

Text proposed by the Commission

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular

Amendment

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular

when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board, ***the controller or processor concerned*** and to the Commission.

Or. en

Amendment 2711

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 61 – paragraph 1

Text proposed by the Commission

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of ***data subjects, in particular*** when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages ***or for other reasons***, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the ***Commission***.

Amendment

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of ***a data subject within their competent supervisory***, when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages ***through a clear data breach or an unjustified inaction by the competent supervisory authority***, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the ***competent supervisory authority, the*** European Data Protection Board, ***the Commission*** and to the ***controller or processor***.

Amendment 2712**Adina-Ioana Vălean, Jens Rohde****Proposal for a regulation****Article 61 – paragraph 1***Text proposed by the Commission*

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

Amendment

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board, ***the controller or processor concerned*** and to the Commission.

Amendment 2713**Axel Voss****Proposal for a regulation****Article 61 – paragraph 1***Text proposed by the Commission*

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for

Amendment

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for

averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board **and to the Commission**.

averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board, **the Commission and the controller or processor concerned**.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2714

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation Article 61 – paragraph 2

Text proposed by the Commission

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 **and considers that final measures need urgently be adopted, it may** request an urgent opinion of the European Data Protection Board, giving reasons for **requesting such opinion**, including for the urgency of final measures.

Amendment

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 **it shall** request an urgent opinion of the European Data Protection Board, giving reasons for **the claim**, including for the urgency of final measures.

Or. en

Amendment 2715

Axel Voss

Proposal for a regulation Article 61 – paragraph 2

Text proposed by the Commission

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 **and**

Amendment

2. Where a supervisory authority has taken a measure pursuant to paragraph 1, **it shall**

considers that final measures need urgently be adopted, it may request an urgent opinion of the European Data Protection Board, giving reasons for *requesting such opinion*, including for the urgency of final measures.

request an urgent opinion of the European Data Protection Board, giving reasons for *the request*, including for the urgency of final measures.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2716
Dimitrios Droutsas

Proposal for a regulation
Article 61 a (new)

Text proposed by the Commission

Amendment

Article 61a

Intervention by the Commission

- 1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, a reasoned recommendation in relation to matters raised pursuant to Articles 58 or 61.*
- 2. Where the Commission has adopted a reasoned recommendation, in accordance with paragraph 1, the supervisory authority concerned shall take the utmost account of the Commission's recommendation and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure*
- 3. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within one month and provide a reasoned*

justification. This reasoned justification shall be made publicly available.

The supervisory authority may withdraw the draft measure at any stage of the procedure.

Or. en

Amendment 2717
Alexander Alvaro

Proposal for a regulation
Article 62 – title

Text proposed by the Commission

Amendment

Implementing acts

Delegated acts

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 2718
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The Commission ***may*** adopt
implementing acts for:

1. The Commission ***shall be empowered to***
adopt ***delegated acts in accordance with***
Article 86 for the purpose of:

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 2719
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The Commission may adopt
implementing acts for:

1. The Commission may adopt
implementing acts, ***after requesting an
opinion of the European Data Protection
Board***, for:

Or. en

Amendment 2720
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

***(a) deciding on the correct application of
this Regulation in accordance with its
objectives and requirements in relation to
matters communicated by supervisory
authorities pursuant to Article 58 or 61,
concerning a matter in relation to which a
reasoned decision has been adopted
pursuant to Article 60(1), or concerning a
matter in relation to which a supervisory
authority does not submit a draft measure
and that supervisory authority has
indicated that it does not intend to follow
the opinion of the Commission adopted
pursuant to Article 59;***

deleted

Or. en

Amendment 2721
Axel Voss

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59; **deleted**

Or. en

Justification

From ITRE-opinion.

Amendment 2722

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 62 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59; **deleted**

Amendment 2723
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) deciding, within the period referred to in Article 59(1), whether it declares draft standard data protection clauses referred to in point (d) of Article 58(2), as having general validity; *deleted*

Or. en

Amendment 2724
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) deciding, within the period referred to in Article 59(1), whether it declares draft standard data protection clauses referred to in point (d) of Article 58(2), as having general validity; *deleted*

Or. es

Amendment 2725
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) specifying the format and procedures for the application of the consistency mechanism referred to in this section; *deleted*

Amendment 2726
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 1 – 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 2727
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission

Amendment

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months. ***deleted***

Or. en

Amendment 2728
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission

Amendment

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months. *deleted*

Or. es

Amendment 2729
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission

Amendment

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months. *deleted*

Or. en

Amendment 2730
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 63 – paragraph 1

Text proposed by the Commission

Amendment

1. For the purposes of this Regulation, an enforceable measure of the supervisory authority of one Member State shall be *deleted*

enforced in all Member States concerned.

Or. en

Amendment 2731

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 63 – paragraph 2

Text proposed by the Commission

Amendment

2. Where a supervisory authority does not submit a draft measure to the consistency mechanism in breach of Article 58(1) to (5), the measure of the supervisory authority shall not be legally valid and enforceable.

deleted

Or. en

Amendment 2732

Alexander Alvaro

Proposal for a regulation

Article 63 a (new)

Text proposed by the Commission

Amendment

Article 63a

Appealing procedures

Without prejudice to the competences of the judiciary system of the Member States and of the Union, the European Data Protection Board can issue binding opinions if:

(a) a data subject or a data controller appeals on ground of inconsistent application of this Regulation across the Member States; and

(b) the consistency mechanism described in Articles 58 to 63 has failed to ensure that a simple majority of the members of the European Data Protection Board

agrees on a measure. Before issuing such opinion, the European Data Protection Board shall take into consideration every relevant information the competent Data Protection Authority can provide, including the point of view of the interested parties.

Or. en

Justification

An appealing procedure is necessary in case of an inconsistent application of this Regulation across the Member States and in case the consistency mechanism fails.

Amendment 2733

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 65 – paragraph 2

Text proposed by the Commission

Amendment

2. Without prejudice to requests by the Commission referred to in point (b) of paragraph 1 and in paragraph 2 of Article 66, the European Data Protection Board shall, in the performance of its tasks, neither seek nor take instructions from anybody.

deleted

Or. en

Amendment 2734

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 66 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on

its own initiative **or** at the request of the Commission, in particular:

its own initiative, at the request of the Commission **or other stakeholders**, in particular:

Or. en

Amendment 2735
Frank Engel

Proposal for a regulation
Article 66 – paragraph 1 – introductory part

Text proposed by the Commission

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative **or** at the request of the **Commission**, in particular:

Amendment

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative, at the request of the **European Parliament, Council or Commission**, in particular:

Or. en

Amendment 2736
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – introductory part

Text proposed by the Commission

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

Amendment

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the **European Parliament, Council and the Commission**, in particular:

Or. en

Amendment 2737
Axel Voss

Proposal for a regulation

Article 66 – paragraph 1 – introductory part

Text proposed by the Commission

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

Amendment

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission ***or other stakeholders***, in particular:

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2738

Dimitrios Droutsas

Proposal for a regulation

Article 66 – paragraph 1 – point a

Text proposed by the Commission

(a) advise the ***Commission*** on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;

Amendment

(a) advise the ***European Institutions*** on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;

Or. en

Amendment 2739

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 66 – paragraph 1 – point b

Text proposed by the Commission

(b) examine, on its own initiative or on request of one of its members ***or on request of the Commission***, any question covering the application of this Regulation

Amendment

(b) examine, on its own initiative or on request of one of its members, ***the Commission or other stakeholders*** any question covering the application of this

and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Or. en

Amendment 2740
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point b

Text proposed by the Commission

(b) examine, on its own initiative or on request of one of its members or on request of the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Amendment

(b) examine, on its own initiative or on request of one of its members or on request of the ***European Parliament, the Council or the*** Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation, ***including on the use of enforcement powers;***

Or. en

Amendment 2741
Axel Voss

Proposal for a regulation
Article 66 – paragraph 1 – point b

Text proposed by the Commission

(b) examine, on its own initiative or on request of one of its members ***or on request of the Commission,*** any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Amendment

(b) examine, on its own initiative or on request of one of its members, ***the Commission or other stakeholders,*** any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Justification

Taken from ITRE-opinion.

Amendment 2742
Alexander Alvaro

Proposal for a regulation
Article 66 – paragraph 1 – point d

Text proposed by the Commission

(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57;

Amendment

(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57 **and Article 63a**;

Or. en

Amendment 2743
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) provide an opinion on which authority should be the lead authority pursuant to Article 54a(3);

Or. en

Amendment 2744
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) give its opinion to the Commission in the preparation of delegated and implementing acts based on this

Regulation;

Or. en

Amendment 2745

Louis Michel

Proposal for a regulation

Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) examine codes of conduct and amendments or extensions to existing codes of conduct submitted to it pursuant to Article 38(3).

Or. en

Amendment 2746

Sophia in 't Veld

Proposal for a regulation

Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) provide assistance or litigate on behalf of the supervisory authority, at the request of that supervisory authority, when the resources of the supervisory authority are insufficient to effectively take up a case before any court;

Or. en

Justification

This is particularly important in cases against companies that might amount to large fines and where the legal capacities of the DPA might not effectively match those of the company concerned.

Amendment 2747

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) propose the concepts on which European certification policy should be based, monitor and assess implementation, and submit its conclusions to the Commission.

Or. es

Amendment 2748
Carmen Romero López

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) set out common procedures for the receipt and investigation of information pertaining to complaints concerning the unlawful processing of personal data with a view to protecting whistleblowers from reprisals, and to safeguarding the confidentiality of the sources of such information in cases where whistleblowers may be affected by third countries' laws prohibiting the uncovering of such unlawful processing of personal data.

Or. es

Justification

Proposes setting out common procedures to deal with complaints from whistleblowers and taking measures to protect them from possible reprisals and keep their identity secret where necessary.

Amendment 2749
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) give an opinion on codes of conduct drawn up at Union level;

Or. en

Amendment 2750
Sophia in 't Veld

Proposal for a regulation
Article 66 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 2751
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

(gc) elaborate with the supervisory authorities the fixed fee for the granting of the standardised data protection mark, the "European Data Protection Seal".

Or. en

Amendment 2752
Judith Sargentini

Proposal for a regulation
Article 66 – paragraph 1 – point g d (new)

Text proposed by the Commission

Amendment

(gd) establish common procedures for receiving and investigating information concerning allegations of unlawful processing, protecting informants against reprisals, and safeguarding confidentiality and sources of information received; taking into account that informants may place themselves in jeopardy of prosecution based on laws of third countries which may prohibit disclosures about such unlawful processing.

Or. en

Justification

requires the DP board to protect whistleblowers informing supervisory authorities about secret unlawful processing activities, in particular concerning laws of third countries which seek to authorize disclosures of data which would be unlawful in the EU. Very serious instances are likely to involve many DPAs and thus require Board level coordination and consistency.

Amendment 2753
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the Commission **requests** advice from the European Data Protection Board, it may lay out a time limit within which the European Data Protection Board shall provide such advice, taking into account the urgency of the matter.

2. Where the **European Parliament, the Council or the** Commission **request** advice from the European Data Protection Board, it may lay out a time limit within which the European Data Protection Board shall provide such advice, taking into account the urgency of the matter.

Or. en

Amendment 2754

Alexander Alvaro

Proposal for a regulation

Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Or. en

Amendment 2755

Frank Engel

Proposal for a regulation

Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Or. en

Amendment 2756

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Or. en

Amendment 2757

Axel Voss

Proposal for a regulation

Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in Article 66, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2758

Dimitrios Droutsas

Proposal for a regulation

Article 68 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall take decisions by a simple majority of its members.

Amendment

1. The European Data Protection Board shall take decisions by a simple majority of its members, ***unless otherwise provided in its rules of procedure.***

Or. en

Amendment 2759

Carmen Romero López

Proposal for a regulation

Article 68 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In votes on the European Data Protection Board, each representative of the supervisory authority of their Member State shall have as many votes as its Member State has in the Council of the European Union.

Or. es

Amendment 2760

Csaba Sógor

Proposal for a regulation

Article 69 – paragraph 1

Text proposed by the Commission

Amendment

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members. ***One deputy chairperson shall be the European Data Protection Supervisor, unless he or she has been elected chair.***

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members.

Or. hu

Amendment 2761

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 69 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members. ***One deputy chairperson shall be the European Data Protection Supervisor, unless he or she has been elected chair.***

Amendment

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members.

Or. es

Amendment 2762
Carmen Romero López

Proposal for a regulation
Article 69 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members. ***One deputy chairperson shall be the European Data Protection Supervisor, unless he or she has been elected chair.***

Amendment

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members.

Or. es

Amendment 2763
Axel Voss

Proposal for a regulation
Article 69 – paragraph 2

Text proposed by the Commission

2. The term of office of the chair and of the deputy chairpersons shall be five years and be renewable.

Amendment

2. The term of office of the chair and of the deputy chairpersons shall be five years and be renewable. ***Their appointment may be revoked by a decision of the European Parliament adopted by a two-thirds majority of the votes cast, representing a majority of its component Members.***

Justification

Taken from ITRE-opinion.

Amendment 2764
Monika Hohlmeier

Proposal for a regulation
Article 70 a (new)

Text proposed by the Commission

Amendment

Article 70a

Experts or Group of Experts

- 1. The European Data Protection Board shall set up a body of stakeholders, this body shall consist of experts from concerned stakeholder groups. The Chair may propose such stakeholders. In proposing this, the Chair shall take data subjects' associations, consumer groups and experts from the private sector and academia into account.***
- 2. The Board shall decide upon the setup and the frequency of the expert group. These decisions shall be based on provisions made in the internal rules of the Board. These rules shall be made public.***
- 3. The Chair of the Board shall also be the Chair the group of experts.***
- 4. Members of the Board may not be members of the expert group. The members of the expert group shall change once during the legislature and at least every 3 years. A representative of the European Parliament and Commission staff shall be invited to the meetings of the expert group and to contribute to its work.***
- 5. The experts shall be consulted by the Board on its activities.***

Amendment 2765
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 71 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall have a secretariat. ***The European Data Protection Supervisor*** shall provide that secretariat.

Amendment

1. The European Data Protection Board shall have a secretariat. ***The Commission*** shall provide ***the Council with the means necessary to run*** that secretariat.

Or. es

Amendment 2766
Carmen Romero López

Proposal for a regulation
Article 71 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall have a secretariat. The ***European Data Protection Supervisor*** shall provide that secretariat.

Amendment

1. The European Data Protection Board shall have a secretariat. The ***Secretariat of the Council*** shall provide that secretariat, ***and allocate the human and financial resources necessary to ensure it can exercise its duties effectively and independently under the management of its Chair.***

Or. es

Amendment 2767
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point b

Text proposed by the Commission

(b) the communication between the members of the European Data Protection Board, ***its*** chair and the Commission and for communication with other institutions and the public;

Amendment

(b) the communication between the members of the European Data Protection Board, ***experts or a group of experts that is consulted by the Board, the*** Chair and the Commission and for communication

with other institutions and the public;

Or. en

Amendment 2768
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point e

Text proposed by the Commission

(e) the preparation and follow-up of the meetings of the European Data Protection Board;

Amendment

(e) the preparation and follow-up of the meetings of the European Data Protection Board ***and for experts or a group of experts that are involved;***

Or. en

Amendment 2769
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point f

Text proposed by the Commission

(f) the preparation, drafting and publication of opinions and other texts adopted by the European Data Protection Board.

Amendment

(f) the preparation, drafting and publication of opinions and other texts adopted by the European Data Protection Board, ***as well as of documents of the experts or group of experts that are involved.***

Or. en

Amendment 2770
Carmen Romero López

Proposal for a regulation
Article 71 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall propose, within two years from the entry into force of this Regulation, a draft regulation for the

establishment of an independent agency which shall run that secretariat, which shall have sufficient human and financial resources to ensure it can exercise its duties effectively and independently under the management of its Chair.

Or. es

Amendment 2771
Sophia in 't Veld

Proposal for a regulation
Article 71 a (new)

Text proposed by the Commission

Amendment

Article 71a

Legal Service

- 1. The European Data Protection Board shall have a legal service. The European Data Protection Supervisor shall provide that legal service.*
- 2. The legal service shall provide legal assistance to supervisory authorities and the European Data Protection Board under the direction of the chair.*
- 3. The legal service shall be responsible in particular for:*
 - (a) providing assistance to supervisory authorities in litigation at the request of a supervisory authority;*
 - (b) litigating on behalf of the supervisory authority when the resources of the supervisory authority are insufficient to effectively take up a case before any court at the request of the supervisory authority, or at the request of the European Data Protection Board or the Commission with the consent of the supervisory authority;*
 - (c) exchanging legal knowledge and experience among the supervisory authorities;*
 - (d) clarifying jurisdictional conflicts with*

third countries.

Or. en

Amendment 2772
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 72 – paragraph 1

Text proposed by the Commission

1. The discussions of the European Data Protection Board shall be confidential.

Amendment

1. The discussions of the European Data Protection Board shall be confidential *where necessary, whilst upholding the highest possible standards of transparency and openness as to its general work.*

Or. en

Amendment 2773
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 72 – paragraph 2

Text proposed by the Commission

2. Documents submitted to members of the European Data Protection Board, experts and representatives of third parties shall be confidential, unless access is granted to those documents in accordance with Regulation (EC) No 1049/2001 or the European Data Protection Board otherwise makes them public.

Amendment

deleted

Or. en

Amendment 2774
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 73 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in **any** Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in ***their*** Member State ***of residence*** if they consider that the processing of personal data relating to them does not comply with this Regulation, ***or that the rights accorded to them under the regulation have not been fully respected.***

Or. es

Amendment 2775
Carmen Romero López

Proposal for a regulation
Article 73 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in **any** Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in ***their*** Member State ***of residence*** if they consider that the processing of personal data relating to them does not comply with this Regulation.

Or. es

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2776
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 73 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in **any** Member State **if they consider that** the processing of personal data relating to them does not comply with this Regulation.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in **their own Member State or the Supervisory Authority in the** Member State **where the controller is established and where** the processing of personal data relating to them does not comply with this Regulation.

Or. en

Amendment 2777
Wim van de Camp

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

deleted

Or. en

Amendment 2778
Louis Michel

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

Amendment

2. Any body, organisation or association **deleted**
which aims to protect data subjects' rights
and interests concerning the protection of
their personal data and has been properly
constituted according to the law of a
Member State shall have the right to lodge
a complaint with a supervisory authority
in any Member State on behalf of one or
more data subjects if it considers that a
data subject's rights under this Regulation
have been infringed as a result of the
processing of personal data.

Or. en

Amendment 2779

Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Lara Comi, Monika Hohlmeier, Hubert Pirker, Georgios Papanikolaou, Salvatore Iacolino

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

Amendment

2. Any body, organisation or association **deleted**
which aims to protect data subjects' rights
and interests concerning the protection of
their personal data and has been properly
constituted according to the law of a
Member State shall have the right to lodge
a complaint with a supervisory authority
in any Member State on behalf of one or
more data subjects if it considers that a
data subject's rights under this Regulation
have been infringed as a result of the
processing of personal data.

Or. en

Justification

The right to privacy and data protection is a fundamental personal right which should not be subject to collective redress and the problematic legal and economical aspects that go along with such collective redress.

Amendment 2780

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State ***shall have the right to*** lodge a complaint with a supervisory authority in ***any*** Member State on behalf of one or more data subjects ***if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.***

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State ***may*** lodge a complaint with a supervisory authority in ***that*** Member State ***for an alleged breach of this Regulation. The rights bestowed on it under this Regulation also empower it to*** act on behalf of one or more data subjects ***resident in that Member State, provided it has sufficient power of attorney to do so.***

Or. es

Amendment 2781

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or

more data subjects *if it considers that* a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

more data subjects *with the consent of the data subject if* a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. en

Amendment 2782

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State, *in particular employees' representatives*, shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. de

Amendment 2783

Carmen Romero López

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with *the* supervisory authority in *any* Member State on behalf of one or

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with *the* supervisory authority in *that* Member State on behalf of one or

more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

more data subjects ***residing in that Member State*** if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. es

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2784

Anna Hedh, Marita Ulvskog

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State, ***including worker representatives***, shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. en

Amendment 2785

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to ***protect data subjects'*** rights and interests ***concerning the protection of their personal data and*** has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to ***protects the*** rights and interests ***of natural persons or is acting in the public interest and which*** has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. en

Amendment 2786
Wim van de Camp

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment

deleted

Or. en

Amendment 2787
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2

Amendment

deleted

shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Or. es

Amendment 2788

Louis Michel

Proposal for a regulation

Article 73 – paragraph 3

Text proposed by the Commission

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred. *deleted*

Or. en

Amendment 2789

Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Hubert Pirker, Georgios Papanikolaou, Salvatore Iacolino, Lara Comi

Proposal for a regulation

Article 73 – paragraph 3

Text proposed by the Commission

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred. *deleted*

Or. en

Justification

The right to privacy and data protection is a fundamental personal right which should not be subject to collective redress and the problematic legal and economical aspects that go along with such collective redress

Amendment 2790

Kinga Gál

Proposal for a regulation

Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any ***body, organisation or association referred to in paragraph 2*** shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment

3. Independently of a data subject's complaint, any ***person*** shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Or. hu

Amendment 2791

Cornelia Ernst

Proposal for a regulation

Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred ***or when it considers that a controller or processor has breached its obligations under Article 23.***

Or. en

Amendment 2792

Carmen Romero López

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint ***with a supervisory authority in any Member State***, if it considers that a personal data breach has occurred.

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint ***in the Member State in which are located***, if it considers that a personal data breach ***affecting data subjects residing in that Member State*** has occurred.

Or. es

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2793
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Amendment

deleted

Or. en

Amendment 2794
Alexander Alvaro

Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Amendment

1. ***Without prejudice to the procedure described in Article 63a***, each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning ***or affecting*** them.

Or. en

Amendment 2795

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to ***a judicial remedy*** against decisions of a supervisory authority concerning them.

Amendment

1. Each natural or legal person shall have the right to ***take legal action*** against decisions of a supervisory authority concerning them ***or affecting them in any way***.

Or. es

Amendment 2796

Axel Voss

Proposal for a regulation

Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Amendment

1. Each ***controller, processor or other*** natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Or. en

Justification

Clarification.

Amendment 2797
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 2

Text proposed by the Commission

2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).

Amendment

deleted

Or. en

Amendment 2798
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 74 – paragraph 2

Text proposed by the Commission

2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).

Amendment

2. If the supervisory authority has not informed the data subject of the status of a complaint within three months of its being lodged, the complaint will be deemed to have been rejected. The complaint will also be deemed to have been rejected if the supervisory authority has not definitively resolved it within six months.

Or. es

Amendment 2799
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 3

Text proposed by the Commission

Amendment

3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established. *deleted*

Or. en

Amendment 2800

Kinga Gál

Proposal for a regulation

Article 74 – paragraph 4

Text proposed by the Commission

Amendment

(4) A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State. *deleted*

Or. hu

Amendment 2801

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 74 – paragraph 4

Text proposed by the Commission

Amendment

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State. *deleted*

Amendment 2802

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 74 – paragraph 4

Text proposed by the Commission

Amendment

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State. **deleted**

Or. en

Amendment 2803

Carmen Romero López

Proposal for a regulation

Article 74 – paragraph 4

Text proposed by the Commission

Amendment

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State. **deleted**

Or. es

Justification

Amendment proposed for reasons of consistency with the proposed Article 54a (new).

Amendment 2804

Cornelia Ernst

Proposal for a regulation

Article 74 – paragraph 4

Text proposed by the Commission

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Amendment

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to ***refer the matter to the European Protection Board where his case shall be treated according to the consistency mechanism. Only where the Board has not reached any settlement between the two data protection supervisory authorities, may the data subject request the supervisory authority of the Member State where it has its habitual residence to*** bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Or. en

Amendment 2805

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 74 – paragraph 5

Text proposed by the Commission

5. The Member States shall enforce final decisions by the courts referred to in this Article.

Amendment

deleted

Or. en

Amendment 2806

Josef Weidenholzer

Proposal for a regulation
Article 74 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall provide that no party of proceedings against the supervisory authority referred to in this Article is legally entitled to have its accrued costs compensated by any of the other parties, unless the claim is obviously frivolous.

Or. en

Justification

Data subjects but also smaller controllers (SMEs) are often times forced to even accept very questionable decisions by DPCs, because of the major financial risks when appealing such decisions, while there is usually no financial gain in winning these cases. They suggested that court costs and reimbursement of costs should be waived in order to allow each party to claim their rights effectively.

Amendment 2807
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 75 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to any available administrative remedy, including the right to ***lodge a complaint*** with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed ***as a result of the processing of their personal data in non-compliance with this Regulation.***

1. Without prejudice to any available administrative remedy, including the right to ***pursue legal action*** with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed.

Or. es

Amendment 2808
Claude Moraes, Glenis Willmott

Proposal for a regulation
Article 75 – paragraph 2

Text proposed by the Commission

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers.

Amendment

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers ***or another body which has been entrusted with a mission of public interest.***

Or. en

Amendment 2809
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 75 – paragraph 3

Text proposed by the Commission

3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.

Amendment

3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it ***at the request of one of the parties, and after having heard all of the parties,*** except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.

Or. es

Amendment 2810
Alexander Alvaro

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

Amendment

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects. ***deleted***

Or. en

Amendment 2811
Wim van de Camp

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

Amendment

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects. ***deleted***

Or. en

Amendment 2812
Louis Michel

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

Amendment

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects. ***deleted***

Or. en

Amendment 2813

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

Proposal for a regulation

Article 76 – paragraph 1

Text proposed by the Commission

Amendment

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects. **deleted**

Or. en

Amendment 2814

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 76 – paragraph 1

Text proposed by the Commission

Amendment

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects ***if it has been granted the requisite powers to do so.***

Or. es

Amendment 2815

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 76 – paragraph 3

Text proposed by the Commission

Amendment

3. Where a competent court of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent court in the **deleted**

other Member State to confirm the existence of such parallel proceedings.

Or. es

Amendment 2816
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 76 – paragraph 4

Text proposed by the Commission

Amendment

4. Where such parallel proceedings in another Member State concern the same measure, decision or practice, the court may suspend the proceedings. **deleted**

Or. es

Amendment 2817
Nathalie Griesbeck

Proposal for a regulation
Article 76 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that children enjoy the rights provided for in Articles 73 to 75. Should children be involved in the procedures provided for in Articles 73 to 75, Member States shall as far as possible provide specific guarantees, in particular as regards legal assistance.

Or. fr

Justification

The measures to protect children must also cover procedures involving complaints and judicial remedy.

Amendment 2818
Alexander Alvaro

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller **or the processor** for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered.

Or. en

Amendment 2819
Stanimir Ilchev

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered ***unless the controller or processor proves that they are not responsible for the damage either by intent or negligence.***

Or. de

Justification

This is dealt with in paragraph 3, but sits more comfortably here.

Amendment 2820
Dimitrios Droutsas

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

Amendment

1. Any person who has suffered **material or immaterial** damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered. ***It is in the responsibility of the processor to prove that the damage was not caused by him.***

Or. en

Amendment 2821
Josef Weidenholzer

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered. ***It is in the responsibility of the processor to prove that the damage was not caused by him.***

Or. en

Justification

Due to an imbalance in the access to decisive information, the processor should carry the burden of proof.

Amendment 2822
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller **or the processor** for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered.

Or. en

Amendment 2823

Louis Michel

Proposal for a regulation

Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller **or the processor for the damage suffered.**

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller **for the damage suffered. If a processor processes personal data for purposes other than as instructed by the controller, they may be held liable should any person suffer damage as a result of such processing.**

Or. en

Amendment 2824

Claude Moraes, Glenis Willmott

Proposal for a regulation

Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation, **including blacklisting**, or of an action incompatible with this Regulation shall have the right to receive

or the processor for the damage suffered.

compensation from the controller or the processor for the damage suffered.

Or. en

Justification

Compensation must be ensured if data has been used to bar a data subject from current or future employment.

Amendment 2825

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

**Proposal for a regulation
Article 77 – paragraph 1**

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller **or the processor** for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered.

Or. en

Amendment 2826

Alexander Alvaro

**Proposal for a regulation
Article 77 – paragraph 2**

Text proposed by the Commission

2. Where more than one controller **or processor** is involved in the processing, each controller **or processor** shall be **jointly and severally** liable for the entire amount of the damage.

Amendment

2. Where more than one controller is involved in the processing, each controller shall be liable for the entire amount of the damage, **to the extent that liability has not been already established in the determination of responsibilities as referred to in Article 24.**

Or. en

Amendment 2827
Jan Philipp Albrecht

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage, ***unless they have an appropriate written agreement.***

Or. en

Justification

Creates an incentive for clarifying the roles and responsibilities in writing in cases where several controllers or coprocessors are involved, in line with Art. 29 Working Party, Opinion 169.

Amendment 2828
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission

2. Where more than one controller ***or processor*** is involved in the processing, each controller ***or processor*** shall be ***jointly and severally*** liable for the entire amount of the damage.

Amendment

2. Where more than one controller is involved in the processing, each controller shall be liable for the entire amount of the damage, ***to the extent that liability has not been already established in the determination of responsibilities as referred to in Article 24.***

Or. en

Amendment 2829
Louis Michel

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission

2. Where more than one controller ***or processor*** is involved in the processing, each controller ***or processor shall be jointly and severally liable*** for the ***entire amount*** of the damage.

Amendment

2. Where more than one controller is involved in the processing, each controller ***shall be liable only to the extent that he is responsible*** for the ***event giving rise to*** the damage ***and that liability has not already been established in the determination or responsibilities envisaged in Article 24.***

Or. en

Amendment 2830

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

**Proposal for a regulation
Article 77 – paragraph 2**

Text proposed by the Commission

2. Where more than one controller ***or processor*** is involved in the processing, each controller ***or processor*** shall be jointly and severally liable for the entire amount of the damage.

Amendment

2. Where more than one controller is involved in the processing, each controller shall be jointly and severally liable for the entire amount of the damage, ***notwithstanding the contractual agreement they might have concluded according to Article 24.***

Or. en

Amendment 2831

Cornelia Ernst, Marie-Christine Vergiat

**Proposal for a regulation
Article 77 – paragraph 2**

Text proposed by the Commission

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage. ***In the case of a group of undertakings, the entire group shall be liable as a single economic entity.***

Amendment 2832
Stanimir Ilchev

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

deleted

Or. de

Amendment 2833
Louis Michel

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

deleted

Or. en

Amendment 2834
Alexander Alvaro

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller **or the processor** may be exempted from **this** liability, in whole or in part, if the **controller or the processor** proves **that they are not** responsible for the

3. The controller may be exempted from **the** liability **under paragraph 2**, in whole or in part, if the **respective controller** proves **not to be** responsible for the event

event giving rise to the damage.

giving rise to the damage.

Or. en

Amendment 2835

Frank Engel

Proposal for a regulation

Article 77 – paragraph 3

Text proposed by the Commission

3. The controller ***or the processor*** may be exempted from this liability, in whole or in part, if the controller ***or the processor*** proves that they are not responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from this liability, in whole or in part, if the controller proves that they are not responsible for the event giving rise to the damage ***or if the controller does not have actual knowledge of the event giving rise to the claim for compensation.***

Or. en

Amendment 2836

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 77 – paragraph 3

Text proposed by the Commission

3. The controller ***or the processor*** may be exempted from ***this*** liability, in whole or in part, if the ***controller or the processor*** proves ***that they are not*** responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from ***the*** liability ***under paragraph 2***, in whole or in part, if the ***respective controller*** proves ***not to be*** responsible for the event giving rise to the damage.

Or. en

Amendment 2837

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

Proposal for a regulation

Article 77 – paragraph 3

Text proposed by the Commission

3. The controller ***or the processor*** may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Or. en

Amendment 2838

Frank Engel

Proposal for a regulation

Article 77 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If a processor processes personal data other than as instructed by the controller, he may be held liable should any person suffer damage as a result of such processing.

Or. en

Amendment 2839

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 78 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.

deleted

Or. en

Amendment 2840

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 78 – paragraph 2

Text proposed by the Commission

2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.

Amendment

2. Where the controller has established a representative, any penalties shall be applied to the representative ***in this specific capacity and the representative shall be required to comply with them***, without prejudice to any penalties which could be initiated against the controller.

Or. es

Amendment 2841
Sylvie Guillaume, Françoise Castex, Evelyn Regner

Proposal for a regulation
Article 78 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall lay down rules on penalties that are effective and dissuasive in preventing any abuse of the fundamental right to the protection of personal data as enshrined in the Charter of Fundamental Rights, including legal provisions outlawing as a criminal offence the use of personal data to blacklist workers, vet them or bar them from future employment.

Or. en

Amendment 2842
Dimitrios Droutsas

Proposal for a regulation
Article 78 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In applying the penalties referred to in paragraph 1 Member States shall show

full respect for the principle of ne bis in idem, meaning that penalties may not be imposed twice regarding the same infringement of this Regulation.

Or. en

Amendment 2843

Sylvie Guillaume, Françoise Castex, Evelyn Regner

Proposal for a regulation

Article 78 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall ensure that persons or companies found to be taking part in blacklisting will be excluded from receiving EU grants and funding and from taking part in calls for tender for other public procurement contracts at EU, national or public authority level until all legal proceedings are proven to be completed, all compensation has been paid in full to any victims and there is reliable proof that this criminal culture has been removed from the organisation.

Or. en

Amendment 2844

Sophia in 't Veld

Proposal for a regulation

Article 79 – title

Text proposed by the Commission

Amendment

Administrative sanctions

Sanctions

Or. en

Amendment 2845

Josef Weidenholzer

Proposal for a regulation
Article 79 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The supervisory authority shall seize all profits from a controller or processor which directly result from an intentional or grossly negligent breach of this regulation.

Or. en

Justification

In certain situations a fine based on a percentage might be lower than the profits made from a breach of the law, making certain large-scale illegal business models overall profitable. This amendment introduces the well-established principle of seizure of profits to close this loophole and to ensure fair competition for controllers and processors who respect the law.

Amendment 2846
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Commission shall compile an electronic record of previous instances accessible to all national supervisory authorities. The Commission shall be empowered to adopt delegated acts pursuant to Article 86 for the purpose of managing the electronic record of previous instances in accordance with this article.

Or. es

Amendment 2847
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
The supervisory authorities shall co-operate with each other in accordance with Articles 46 and 57 to guarantee a harmonized level of sanctions within the Union.

Or. en

Amendment 2848

Adina-Ioana Vălean, Jens Rohde

**Proposal for a regulation
Article 79 – paragraph 1**

Text proposed by the Commission

1. ***Each*** supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. ***The competent*** supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Or. en

Amendment 2849

Nils Torvalds

**Proposal for a regulation
Article 79 – paragraph 1**

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each supervisory authority shall be empowered to impose ***warnings or*** administrative sanctions in accordance with this Article.

Or. en

Amendment 2850

Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
The supervisory authorities shall cooperate with each other in accordance with Articles 46 and 57 to guarantee a consistent level of sanctions within the Union.

Or. en

Amendment 2851
Louis Michel

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each ***competent*** supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Or. en

Amendment 2852
Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. ***Each*** supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. ***The competent*** supervisory authority ***in accordance with Article 51*** shall be empowered to impose administrative sanctions in accordance with this Article

Or. pl

Amendment 2853

Hubert Pirker

Proposal for a regulation

Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each **competent** supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Or. de

Amendment 2854

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
The administrative sanctions available to supervisory authorities must include at least financial penalties and other administrative sanctions such as warnings and recommendations for remedial action, including in relation to technical and organisational measures.

Or. en

Justification

Supervisory authorities need sufficient powers to enforce the Regulation.

Amendment 2855

Alexander Alvaro

Proposal for a regulation

Article 79 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. To anyone who does not comply with the obligations laid down in this Regulation, the supervisory authority shall impose at least one of the following sanctions:

(a) a warning in writing;

(b) regular periodic data protection audits;

(c) a fine up to 100 000 000 EUR.

Or. en

Justification

The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Amendment 2856
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. If the controller or the processor is in possession of a valid "European Data Protection Seal" pursuant to Article 39, a fine pursuant to paragraph 2c) shall only be imposed in cases of intentional or negligent non-compliance.

Or. en

Justification

The European Data Protection Seal should create trust among data subjects, legal certainty for controllers and at the same time export European data protection standards by allowing non-European companies to more easily enter European markets by being certified.

Amendment 2857
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. ***The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.***

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Or. en

Justification

The deletion partly results from the introduction of Article 79(1b) and (2a) and partly reflects the deletion of unnecessary specifications.

Amendment 2858
Nils Torvalds

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be ***fixed with due regard to*** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be ***based on*** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person

legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Or. en

Amendment 2859

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the ***sensitivity of the personal data at issue, the*** intentional or negligent character of the infringement, the degree of ***harm or risk of significant harm created by the violation, the degree of*** responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach. ***While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.***

Or. en

Amendment 2860

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional **or negligent** character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional character of the infringement **or the type of negligence leading to it**, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach, **as well as the true economic situation of those penalised**.

Or. es

Amendment 2861
Axel Voss

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to:

- (a) the nature, gravity and duration of the breach;
- (b) the intentional or negligent character of the infringement;
- (c) *the particular categories of personal data;*
- (d) the degree of responsibility of the natural or legal person and of previous breaches by this person;
- (e) *the degree of responsibility for data protection by technical and organisational measures and procedures especially pursuant to Articles 35, 38a, 38b, 38c, 39;*
- (f) the technical and organisational measures and procedures implemented pursuant to Article 23; and
- (g) the degree of co-operation with the supervisory authority in order to remedy the breach.

Or. en

Justification

Taken from ITRE-Opinion. The fact of data being ‘sensitive’ or not should also affect the amount of the fine imposed. In addition it should be considered if a controller or processor considers data protection as a fundamental issue and showing this in implementing technical or organisational measures and safeguards like in Articles 35, 38a, 38b, 38c, 39.

Amendment 2862 **Dimitrios Droutsas**

Proposal for a regulation **Article 79 – paragraph 2**

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. ***The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural***

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Or. en

Amendment 2863

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall ***be fixed with due regard to*** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall ***reflect*** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Or. en

Amendment 2864

Louis Michel

Proposal for a regulation

Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount

of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the *sensitivity of the personal data at issue, the* intentional or negligent character of the infringement, the degree of *harm or risk of significant harm created by the violation, the degree of* responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach. *While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.*

In setting an administrative fine, supervisory authorities shall also take into account fines, damages or other penalties previously imposed by a court or other body on the natural or legal person in respect of the violation issue.

Aggravating factors that support administrative fines at the upper limits established in paragraphs 4 to 6 shall include in particular:

(a) repeated violations committed in reckless disregard of applicable law;

(b) refusal to cooperate with or obstruction of an enforcement process; and

(c) violations that are deliberate, serious and likely to cause substantial damage.

Mitigating factors which support administrative fines at the lower limits shall include:

(a) measures having been taken by the natural or legal person to ensure compliance with relevant obligations;

(b) genuine uncertainty as to whether the

activity constituted a violation of the relevant obligations;

(c) immediate termination of the violation upon knowledge; and

(d) cooperation with any enforcement processes.

Or. en

Amendment 2865
Hubert Pirker

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, ***the specific category of personal data, the seriousness of the damage or risk of damage caused by the breach***, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Or. de

Justification

In determining the fine, the category of data and the extent of the damage need to be taken into account.

Amendment 2866
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. ***The*** administrative sanction shall be in ***each*** individual case effective, proportionate and dissuasive. ***The amount of the administrative fine shall be fixed with due*** regard to the nature, gravity and duration of the breach, ***the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation*** with the supervisory authority in order to remedy the breach.

Amendment

2. ***An*** administrative sanction shall be in ***every*** individual case effective, proportionate and dissuasive. ***In deciding on the nature, scope and seriousness of the administrative sanction to apply the supervisory authority shall have regard to all the circumstances and, in particular:***

(a) the nature, gravity and duration of the breach;

(b) whether the breach was deliberate;

(c) whether reasonable steps were taken to prevent it;

(d) whether the breach did or is likely to cause substantial harm or substantial prejudice to the fundamental rights and freedoms of a data subject, or substantial distress to a data subject;

(e) any steps taken to mitigate the consequences of a breach, including the degree of cooperation with the supervisory authority in order to remedy the breach or its consequences;

(f) any previous breaches.

Or. en

Justification

This better sets out the factors to be taken into account.

Amendment 2867
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The administrative sanction shall take into account the following factors:

(a) the nature, gravity and duration of the incompliance;

(b) the procedures implemented in respect to the contexts of and risks represented by the data processing referred to under Articles 5a and 5b;

(c) the degree of responsibility of the natural or legal person and of previous breaches by this person;

(d) the degree of technical and organisational measures and procedures implemented pursuant to:

(i) Article 23 - Data protection by design and by default;

(ii) Article 23a - Compliance;

(iii) Article 30 - Security of processing;

(iv) Article 33 - Data protection impact assessment;

(v) Article 33a - Data protection compliance review;

(vi) Article 35 - Designation of the data protection officer;

(e) the degree of co-operation with the supervisory authority.

Or. en

Justification

The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Amendment 2868
Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to determine the type, the level and the amount of the administrative sanction, the supervisory authority shall take into account all relevant circumstances, with due regard to the following criteria:

(a) the possession of a valid "European Data Protection Seal" pursuant to Article 39, by the controller or the processor;

(b) the nature, gravity and duration of the infringement;

(c) the intentional or negligent character of the infringement;

(d) the degree of responsibility of the natural or legal person and of previous infringements by this person;

(e) the technical and organisational measures and procedures implemented pursuant to Articles 23 and 30, such as pseudonymisation;

(f) the specific categories of personal data affected by the infringement;

(g) the repetitive nature of the infringement;

(h) the degree of harm suffered by data subjects,

(i) the pecuniary interest leading to the infringement by the person responsible and the level of the profits gained or losses avoided by the person responsible, insofar as they can be determined;

(j) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement; and

(k) the refusal to cooperate with or obstruction of inspections, audits and controls carried out by the supervisory authority pursuant to Article 53.

Amendment 2869

Alexander Alvaro

Proposal for a regulation

Article 79 – paragraph 3

Text proposed by the Commission

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where: **deleted**

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

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

Or. en

Justification

Consequence of introduction of Article 79(2a)(new).

Amendment 2870

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 79 – paragraph 3

Text proposed by the Commission

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where: **deleted**

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

(b) an enterprise or an organisation

employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Or. en

Amendment 2871

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 3

Text proposed by the Commission

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where: *deleted*

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

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

Or. en

Justification

The supervisor needs flexibility in deciding sanctions.

Amendment 2872

Salvador Sedó i Alabart

Proposal for a regulation

Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing *may* be given and no sanction imposed, where:

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing *shall* be given and no sanction imposed, where:

Amendment 2873**Adina-Ioana Vălean, Jens Rohde****Proposal for a regulation****Article 79 – paragraph 3 – introductory part***Text proposed by the Commission*

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, *where:*

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

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

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed. ***The competent supervisory authority may impose a fine, in accordance with the amount of harm caused, up to EUR 1 000 000 for repeated, intentional breaches or, in the case of a company, of up to 1% of its annual worldwide turnover.***

Amendment 2874**Axel Voss****Proposal for a regulation****Article 79 – paragraph 3 – introductory part***Text proposed by the Commission*

3. In case of a ***first and non-intentional*** non-compliance with this Regulation, ***a*** warning ***in writing may be*** given ***and no*** sanction imposed, ***where:***

Amendment

3. In case of a ***non-intentional non-compliance with this Regulation and if there is no data subject affected the*** supervisory authority shall find an agreement with the controller or processor concerned to resolve the non-compliance with this Regulation without a written warning or imposing a sanction.

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

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

In case of a serious non-compliance with this Regulation, the supervisory authority should give at first a written warning including supposed measures to resolve the data breaches within a reasonable time without imposing a sanction.

The supervisory authority may only impose a fine with regard to paragraph 2 of up to EUR 1 000 000 or, in the case of a company, of up to 2 % of its annual worldwide turnover, for not resolving the data breaches with measures given in a written warning or for repeated, deliberate breaches.

Or. en

Justification

Sanctions should be simplified and has to be risk-based orientated and differentiated by the degree of the breach. The maximum amount of the fine must be retained. However, the independence of supervisory authorities established by Article 8(3) of the Charter of Fundamental Rights of the European Union must be maintained. In addition, the consistency mechanism, and in particular Article 58(3) and (4), could contribute to a harmonised policy in the EU for administrative sanctions.

Amendment 2875

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, *in the absence of any record of previous unappealable instances or where the record has been expunged*, a warning in

writing may be given and, *in such an instance*, no sanction imposed, *with the sole exception of alternative corrective measures, which may only be imposed in the following cases and in the following form*, where:

Or. es

Amendment 2876

Véronique Mathieu Houillon, Axel Voss

Proposal for a regulation

Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

3. In case of a first *and non-intentional* non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, *where*:

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

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

Amendment

3. In case of a first non-compliance with this Regulation, a warning in writing may be given and no sanction imposed.

Or. fr

Amendment 2877

Louis Michel

Proposal for a regulation

Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, *where*:

(a) a natural person is processing personal data without a commercial

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed.

interest; or

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

Or. en

Amendment 2878

Nils Torvalds, Riikka Manner

Proposal for a regulation

Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, *where:*

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

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

Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed.

Or. en

Amendment 2879

Jan Mulder

Proposal for a regulation

Article 79 – paragraph 3 – point b

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 2880
Sari Essayah, Eija-Riitta Korhola

Proposal for a regulation
Article 79 – paragraph 3 – point b

Text proposed by the Commission

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

Amendment

(b) an enterprise or an organisation 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 for reaching the aim of the article. Furthermore, the limit is not in all aspects easily interpreted.

Amendment 2881
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 3 – point b

Text proposed by the Commission

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

Amendment

(b) an enterprise or an organisation ***is willing to cooperate with the supervisory authority for the introduction of corrective measures designed to avoid similar cases of non-compliance in future. Cooperation in this area shall be governed by binding agreements with the supervisory authority. Failure to collaborate with the duly accredited supervisory authority within six months from the beginning of the proceedings shall incur the fine which would originally have been imposed.***

Or. es

Amendment 2882

Sari Essayah

Proposal for a regulation

Article 79 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) a public authority is processing data.

Or. en

Amendment 2883

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) public administrations shall collaborate with supervisory authorities to establish ways of avoiding similar infringements in future. Collaboration in this area shall be determined on the basis of the agreements or decisions adopted by the administration concerned, which shall be referred to at the outset with regard to the measures taken. Failure to collaborate with the duly accredited supervisory authority within one year from the beginning of the proceedings shall incur the fine which would originally have been imposed.

Or. es

Amendment 2884

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. A supervisory authority may, in particular, decide that it is appropriate to

apply a sanction other than a financial penalty if the nature, scope or purposes of the processing activities are such that the activity is unlikely to represent risks for the fundamental rights of a data subject.

Or. en

Justification

The supervisor needs flexibility in relating sanction to risk.

Amendment 2885

Alexander Alvaro

Proposal for a regulation

Article 79 – paragraph 4

Text proposed by the Commission

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently: **deleted**

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Or. en

Justification

Consequence of introduction of Article 79(2a)(new).

Amendment 2886

Axel Voss

Proposal for a regulation

Article 79 – paragraph 4

Text proposed by the Commission

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Or. en

Amendment 2887

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 79 – paragraph 4

Text proposed by the Commission

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Or. en

Amendment 2888

Dimitrios Droutsas

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine **up to** 250 000 EUR, or in case of an enterprise **up to 0,5** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Amendment

4. The supervisory authority shall impose a fine **that shall not exceed** 250 000 EUR, or in case of an enterprise **1** % of its annual worldwide turnover, to anyone who intentionally or negligently **infringes Article 12(1) and (2).**

Or. en

Amendment 2889

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 79 – paragraph 4

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to **0,5** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to **1** % of its annual worldwide turnover **whatever is higher** to anyone who intentionally or negligently **infringes Article 12(1) and (2).**

Justification

More precise language and more adequate maximum fine for intentional infringement as outlined in the paragraph.

Amendment 2890

Louis Michel

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority ***shall*** impose a fine up to 250 000 EUR, ***or in case of an enterprise up to 0,5 % of its annual worldwide turnover***, to anyone who, intentionally ***or negligently***:

Amendment

4. The supervisory authority ***may*** impose a fine up to 250 000 EUR to anyone who, intentionally:

Or. en

Amendment 2891

Nils Torvalds, Riikka Manner

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall ***impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover***, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority shall, ***based on the gravity of the breach, impose a fine or a warning*** to anyone who, intentionally or negligently:

Or. en

Amendment 2892

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to **0,5** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to **1** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Amendment 2893

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose **a fine** up to 250 000 **EUR**, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, **intentionally or negligently**:

Amendment

4. The supervisory authority shall impose ***fin***~~es~~ ***graded in relation to the seriousness and scale of the incident, as well as the harm or potential harm caused, the length of the breach, previous infringements and the response to the incident or incidents concerned***, up to ***a maximum of*** 250 000 **EU**, or in case of an enterprise up to 0,5 % of its annual worldwide turnover. ***Such infringements and fines may apply*** to anyone who:

Or. en

Amendment 2894

Ewald Stadler

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to **250.000 EUR or, in case of an enterprise up to 0,5 % of its annual worldwide turnover**, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority shall impose a fine up to **500 000 EUR** to anyone who, intentionally or negligently

Justification

A fine proportionate to the turnover of the undertaking would be disproportionate for such a breach.

Amendment 2895

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority ***shall*** impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority ***may*** impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Justification

Supervisory authorities need discretion to decide whether and what level of fine is appropriate.

Amendment 2896

Alexander Alvaro

Proposal for a regulation

Article 79 – paragraph 5

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

deleted

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article

Amendment

12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Justification

Consequence of introduction of Article 79 paragraph 2a (new).

Amendment 2897

Axel Voss

Proposal for a regulation

Article 79 – paragraph 5

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical

and scientific research purposes.

Or. en

Amendment 2898

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 79 – paragraph 5

Text proposed by the Commission

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain

the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Amendment 2899

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR or, in case of an enterprise up to 1 % of its annual worldwide **turnover**, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR or, in case of an enterprise, up to 1 % of its **average** annual worldwide **profits** to anyone who, intentionally or negligently:

Or. es

Amendment 2900

Wim van de Camp

Proposal for a regulation

Article 79 – paragraph 5

Text proposed by the Commission

5. The supervisory authority **shall** impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data

Amendment

5. The supervisory authority **may** impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data

subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, ***or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;***

(d) ***does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to*** another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure ***or has not provided a mechanism pursuant Article 17a. When determining a fine for a violation as referred to in this section, the supervisory authority shall take into account the extent to which the controller, or the main establishment as referred to in article 22(4), has put in place mechanisms for ensuring that the time limits with respect to the retention of the personal data are observed;***

(d) ***hinders the data subject to his user-generated content to*** another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’

(like data security, data subject's rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2901
Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine **up to** 500 000 EUR, or in case of an enterprise **up to 1** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine

Amendment

5. The supervisory authority shall impose a fine **that shall not exceed** 500 000 EUR, or in case of an enterprise **2** % of its annual worldwide turnover to anyone who intentionally or negligently **infringes Articles 11, 12(3) and (4), 13, 14, 15, 16, 17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.**

the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Amendment 2902

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to **1** % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to **2** % of its annual worldwide turnover **whatever is higher**, to anyone who, intentionally or negligently, **infringes Articles 11, 12(3) and (4), 13, 14, 15, 16, 17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.**

time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Amendment 2903
Louis Michel

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority ***shall impose*** a fine up to 500 000 EUR, ***or in case of an enterprise up to 1 % of its annual worldwide turnover***, to anyone who, intentionally ***or negligently***:

Amendment

5. The supervisory authority ***imposes*** a fine up to 500 000 EUR to anyone who intentionally:

Or. en

Amendment 2904
Nils Torvalds, Riikka Manner

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall ***impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover***, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall, ***based on the gravity of the breach, impose a fine or a warning*** to anyone who, intentionally or negligently:

Or. en

Amendment 2905

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to ***1 %*** of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to ***3 %*** of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Amendment 2906

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, ***intentionally or negligently***:

Amendment

5. The supervisory authority shall impose a fine ***under the same criteria as listed in article 79 paragraph 4, for the more serious breaches***, up to ***a maximum of*** 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover to anyone who:

Amendment 2907

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority ***shall*** impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority ***may*** impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Justification

Supervisory authorities need greater discretion to decide whether and what level of fine is appropriate.

Amendment 2908

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 5 – point a

Text proposed by the Commission

(a) does not provide the information, or does provide incomplete information, ***or does not provide the information in a sufficiently transparent manner, to the data subject*** pursuant to Article 11, Article 12(3) and Article 14;

Amendment

(a) does not provide the information, or does provide ***manifestly*** incomplete information, pursuant to Article 11, Article 12(3) and Article 14;

Or. es

Amendment 2909

Louis Michel

Proposal for a regulation

Article 79 – paragraph 5 – point c

Text proposed by the Commission

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

Amendment

(c) does not comply with the right to be forgotten or to erasure, ***on websites or data within their control***, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

Or. en

Amendment 2910

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 5 – point c

Text proposed by the Commission

(c) does not comply with the right to be forgotten or to erasure, ***or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;***

Amendment

(c) does not comply with ***a request concerning*** the right to be forgotten or erasure ***in accordance with the provisions of this Regulation.***

Or. es

Amendment 2911

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 5 – point d

Text proposed by the Commission

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

Amendment

(d) does not provide a copy of the personal data in electronic format or ***for no legitimate reason*** hinders the data subject to transmit the personal data to another application in violation of Article 18;

Amendment 2912

Louis Michel

Proposal for a regulation

Article 79 – paragraph 5 – point e

Text proposed by the Commission

Amendment

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

deleted

Or. en

Amendment 2913

Louis Michel

Proposal for a regulation

Article 79 – paragraph 5 – point f

Text proposed by the Commission

Amendment

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

deleted

Or. en

Amendment 2914

Stanimir Ilchev

Proposal for a regulation

Article 79 – paragraph 5 – point f

Text proposed by the Commission

Amendment

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(f) does not or not sufficiently maintain the documentation pursuant to **Article 14**, Article 28, Article 31(4), and Article 44(3);

Or. de

Amendment 2915
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 5 – point f

Text proposed by the Commission

(f) does not *or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);*

Amendment

(f) does not *report or ensure that it is able to report to the supervisory authority where required to do so and in the manner stipulated in this Regulation, except in the case of serious misconduct under the terms of this Regulation or the implementing legislation of the Member States;*

Or. es

Amendment 2916
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance

deleted

Amendment

pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Justification

Consequence of introduction of Article 79 paragraph 2a (new).

Amendment 2917

Axel Voss

Proposal for a regulation**Article 79 – paragraph 6**

Text proposed by the Commission

Amendment

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the

supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Or. en

Amendment 2918

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 79 – paragraph 6

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently: *deleted*

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Or. en

Amendment 2919
Wim van de Camp

Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or

Amendment

6. The supervisory authority **may** impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or

the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant

the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(f) does not designate a representative pursuant to Article 25;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant

information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and **Article 53(2)**;

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and **Article 53(3)**;

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Or. en

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’ (like data security, data subject’s rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2920

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide **turnover**, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise, up to 2 % of its **average** annual worldwide **profits** to anyone who intentionally or negligently:

Or. es

Amendment 2921

Dimitrios Droutsas

Proposal for a regulation

Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine **up to** 1 000 000 EUR or, in case of an

Amendment

6. The supervisory authority shall impose a fine **that shall not exceed** 1 000 000 EUR

enterprise **up to 2 %** of its annual worldwide turnover, to anyone who, intentionally or negligently:

or, in case of an enterprise **5 %** of its annual worldwide turnover, to anyone who intentionally or negligently ***infringes the provisions of this Regulation other than those referred to in paragraphs 4 and 5.***

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Or. en

Amendment 2922

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine **up to** 1 000 000 EUR or, in case of an enterprise **up to 2 %** of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

Amendment

6. The supervisory authority shall impose a fine **that shall not exceed** 1 000 000 EUR or, in case of an enterprise **5 %** of its annual worldwide turnover **whatever is higher**, to anyone who intentionally or negligently **infringes the provisions of this Regulation other than those referred to in paragraphs 4 and 5.**

- (c) does not comply with an objection or the requirement pursuant to Article 19;*
- (d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;*
- (e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;*
- (f) does not designate a representative pursuant to Article 25;*
- (g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;*
- (h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;*
- (i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;*
- (j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;*
- (k) misuses a data protection seal or mark in the meaning of Article 39;*
- (l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;*
- (m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);*
- (n) does not comply with the obligations to*

assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Or. en

Amendment 2923

Louis Michel

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority *shall* impose a fine up to 1 000 000 EUR *or, in case of an enterprise up to 2 % of its annual worldwide turnover*, to anyone who, intentionally *or negligently*:

Amendment

6. The supervisory authority *may* impose a fine up to 1 000 000 EUR to anyone who, intentionally:

Or. en

Amendment 2924

Nils Torvalds, Riikka Manner

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall *impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover*, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall, *based on the gravity of the breach, impose a fine or warning* to anyone who, intentionally or negligently:

Or. en

Amendment 2925

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Amendment 2926

Ewald Stadler

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1.000.000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1.000.000 EUR or, in case of **a breach with intent to make a profit by** an enterprise, up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. de

Amendment 2927

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, **intentionally or negligently**:

Amendment

6. The supervisory authority shall impose a fine **under the same criteria as listed in Article 79(4) for the most serious breaches**, up to **a maximum of** 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who:

Amendment 2928

Sarah Ludford

Proposal for a regulation

Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority ***shall*** impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority ***may*** impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Justification

Supervisory authorities need discretion to decide whether and what level of fine is appropriate.

Amendment 2929

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point c

Text proposed by the Commission

(c) does not comply with an objection or the requirement pursuant to Article 19;

Amendment

(c) does not comply with an objection or the requirement pursuant to Article 19 ***unless duly justified by real and legitimate grounds or reasons in accordance with this Regulation;***

Or. es

Amendment 2930

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point d

Text proposed by the Commission

Amendment

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20; ***deleted***

Or. es

Amendment 2931

Louis Michel

Proposal for a regulation

Article 79 – paragraph 6 – point e

Text proposed by the Commission

Amendment

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30; ***deleted***

Or. en

Amendment 2932

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point e

Text proposed by the Commission

Amendment

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30; ***deleted***

Or. es

Amendment 2933

Louis Michel

Proposal for a regulation

Article 79 – paragraph 6 – point f

Text proposed by the Commission

Amendment

(f) does not designate a representative pursuant to Article 25;

deleted

Or. en

Amendment 2934

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point h

Text proposed by the Commission

Amendment

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject ***where mandatory*** pursuant to Articles 31 and 32;

Or. es

Amendment 2935

Louis Michel

Proposal for a regulation

Article 79 – paragraph 6 – point i

Text proposed by the Commission

Amendment

(i) does not carry out a data protection impact assessment pursuant to processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

deleted

Or. en

Amendment 2936

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point i

Text proposed by the Commission

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

Amendment

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority **where mandatory** pursuant to Articles 33 and 34;

Or. es

Amendment 2937

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point j

Text proposed by the Commission

(j) does not **designate a data protection officer or does not** ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

Amendment

(j) does not ensure **that the conditions are met to enable the Data Protection Officer to carry out** the tasks pursuant to Articles 35, 36 and 37;

Or. es

Amendment 2938

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 – point k

Text proposed by the Commission

(k) misuses a data protection seal **or** mark in the meaning of Article 39;

Amendment

(k) misuses a data protection seal, mark **or certification** in the meaning of Article 39;

Or. es

Amendment 2939

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 a (new)

6a. For the purpose of this article, the record of previous unappealable sanctions for infringements through negligence shall be expunged within the following periods:

(a) two years if the sanctions are accompanied by any of the fines specified under paragraph 4;

(b) four years if the sanctions are accompanied by any of the fines specified under paragraph 5;

(c) six years if the sanctions are accompanied by any of the fines specified under paragraph 6.

Or. es

Amendment 2940
Wim van de Camp

Proposal for a regulation
Article 79 – paragraph 6 a (new)

6a. A fine for violations referred to in paragraph 6 can only be imposed for a particular processing of personal data. When determining a fine for a violation as referred to in this paragraph, the supervisory authority shall take into account the following facts and circumstances:

(a) the extent to which the controller, or the main establishment as referred to in Article 22(4), has adopted internal policies and has implemented the measures referred to in Articles 22, 23 and 30 with respect to such processing;

(b) the fact whether or not the controller, or the main establishment as referred to in Article 22(4), has designated a data

protection officer pursuant to Article 35;

(c) the extent to which the controller has allowed the data protection officer, if any, to perform his tasks as referred to in Article 37 with respect to such processing;

(d) the extent to which the data protection officer, if any, was involved in the decision making with respect to such processing or in the implementation thereof;

(e) the fact whether or not the controller has performed a privacy impact assessment with respect to such processing;

(f) the fact whether or not the controller, where relevant, has complied with Article 26; and

(g) the extent to which the controller has instructed the processor, if any, pursuant to Article 27.

Or. en

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’ (like data security, data subject’s rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2941

Agustín Díaz de Mera García Consuegra

Proposal for a regulation

Article 79 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. For the purpose of this article, the record of previous unappealable sanctions for infringements committed through serious negligence or with intent shall be

expunged within the following periods:

(a) five years if the sanctions are accompanied by any of the fines specified under paragraph 4;

(b) ten years if the sanctions are accompanied by any of the fines specified under paragraph 5;

(c) fifteen years if the sanctions are accompanied by any of the fines specified under paragraph 6.

Or. es

Amendment 2942

Axel Voss

Proposal for a regulation

Article 79 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

deleted

Or. en

Amendment 2943

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 79 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to

deleted

in paragraph 2.

Or. en

Amendment 2944
Josef Weidenholzer

Proposal for a regulation
Article 79 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

deleted

Or. en

Amendment 2945
Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

7. 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 updating the ***absolute*** amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2 ***and the development of standard costs of living.***

Or. en

Amendment 2946
Louis Michel

Proposal for a regulation
Article 79 – paragraph 7

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Amendment

7. Where convincing evidence exists of continued negligence or gross negligence by organisations in the execution of their responsibilities under this Regulation or the failure of these sanctions to deter serious abuses that cannot be addressed under the current framework. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts ***or conditions*** of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Or. en

Amendment 2947
Sari Essayah

Proposal for a regulation
Article 79 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Article 79(4) to (7) shall not apply to public authorities. The supervisory authority shall not possess authority to define and impose fines on public authorities.

Or. en

Amendment 2948
Sophia in 't Veld

Proposal for a regulation
Article 79 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Commission shall bring forward a

legislative proposal for the purpose of specifying the criteria and requirements for the joint and several liability of the board of the controller and the processor, and in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation within one year after the entry into force of this Regulation.

Or. en

Amendment 2949
Sophia in 't Veld

Proposal for a regulation
Article 79 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. The Commission shall bring forward a legislative proposal for the purpose of specifying the criteria and requirements for administrative and criminal sanctions against the board, in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation causing, or having caused, damage to data subjects, within one year after the entry into force of this Regulation.

Or. en

Amendment 2950
Sophia in 't Veld

Proposal for a regulation
Article 79 – paragraph 7 c (new)

Text proposed by the Commission

Amendment

7c. The Commission shall bring forward a legislative proposal for the purpose of specifying the conditions and criteria to guarantee the legal protection of whistleblowers within one year after the

entry into force of this Regulation.

Or. en