



**2021/0399(COD)**

15.9.2022

# **AMENDMENTS**

## **4 - 13**

**Draft report**

**Patryk Jaki**

(PE734.464v01-00)

Amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data

Proposal for a directive

(COM(2021)0767 – C9-0441/2021 – 2021/0399(COD))



## Amendment 4

Karolin Braunsberger-Reinhold, Loránt Vincze

### Proposal for a directive

#### Recital 1

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

(1) Directive (EU) 2016/680 of the European Parliament and of the Council<sup>9</sup> provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to public security. The Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.

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<sup>9</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

##### *Amendment*

(1) Directive (EU) 2016/680 of the European Parliament and of the Council<sup>9</sup> provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to public security. ***That Directive requires Member States to process personal data in a manner that ensures appropriate security of the personal data.*** The Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.

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<sup>9</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

Or. en

## Amendment 5

Saskia Bricmont

**Proposal for a directive**

**Recital 3**

*Text proposed by the Commission*

(3) In the interest of clarity, the references contained in Decision 2005/671/JHA to the legal instruments governing the operation of the European Union Agency for Law Enforcement Cooperation (Europol) should be updated.

*Amendment*

(3) In the interest of clarity, the references contained in Decision 2005/671/JHA to the legal instruments governing the operation of the European Union Agency for Law Enforcement Cooperation (Europol) **and of the European Union Agency for Criminal Justice Cooperation (Eurojust)** should be updated.

Or. en

**Amendment 6**

**Karolin Braunsberger-Reinhold, Loránt Vincze**

**Proposal for a directive**

**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3 a) Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>10a</sup> provides for safeguards for transfer of personal data between Member States and Europol, and notably that any processing and transfer of personal data between Member States and Europol is to take place through secured channels in order to ensure the uniform and consistent protection of natural persons with regard to the processing of their personal data.***

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***<sup>10a</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data,***

*and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

Or. en

**Amendment 7**  
**Saskia Bricmont**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>11</sup> and delivered an opinion on **XX/XX 20XX**,

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<sup>11</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Amendment*

(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>11</sup> and delivered an opinion on **25 January 2022**,

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<sup>11</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Or. en

**Amendment 8**  
**Saskia Bricmont**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Decision 2005/671/JHA  
Article 1 – paragraph 1 – point b

*Text proposed by the Commission*

(1) in Article 1, point (b) is **deleted**;

*Amendment*

(1) in Article 1, point (b) is **replaced by**

*the following:*

**'(b) 'Europol Regulation': Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>1a</sup>;**

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*<sup>1a</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).*

Or. en

**Amendment 9**  
**Saskia Bricmont**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1 a (new)**  
Decision 2005/671/JHA  
Article 1 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

**(1 a) in Article 1, point (c) is replaced by the following:**

**'(c) 'Eurojust Regulation': Regulation (EU) 2018/1727 of the European Parliament and of the Council<sup>1a</sup>;**

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*<sup>1a</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).*

Or. en

**Amendment 10**  
**Dragoş Tudorache, Michal Šimečka**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
Decision 2005/671/JHA  
Article 2– paragraph 3– subparagraph 1 a (new)

*Text proposed by the Commission*

Each Member State shall ensure that personal data is processed pursuant to the first subparagraph only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences.

*Amendment*

Each Member State shall ensure that personal data is processed pursuant to the first subparagraph only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences ***in compliance with Union law on data protection while also ensuring the confidentiality of the judicial proceedings.***

Or. en

**Amendment 11**  
**Saskia Bricmont**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b a (new)**  
Decision 2005/671/JHA  
Article 2 – paragraph 5 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(b a) in paragraph 5, the following subparagraph is added:***

***'The categories of personal data to be transmitted to Eurojust for the purpose referred to in paragraph 3 shall remain limited to those referred in Article 27(1) of the Eurojust Regulation.'***

Or. en

**Amendment 12**  
**Saskia Bricmont**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point c a (new)**  
Decision 2005/671/JHA  
Article 2 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(c a) the following paragraph is inserted:**

**“6a. Each Member State shall ensure that personal data are processed pursuant to this Article in full compliance with Directive (EU) 2016/680 of the European Parliament and of the Council<sup>1a</sup> and only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences.”**

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<sup>1a</sup> **Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).**

Or. en

**Amendment 13**  
**Dragoş Tudorache, Michal Šimečka**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point c**  
Decision 2005/671/JHA  
Article 2 – paragraph 6 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

The categories of personal data that **may** be exchanged between Member States for the purposes referred to in the first

The categories of personal data that **shall** be exchanged between Member States **thorough secured communications**



subparagraph shall remain limited to those specified in Section B, point 2, of Annex II to Regulation (EU) 2016/794.

*channels* for the purposes referred to in the first subparagraph shall remain limited to those specified in Section B, point 2, of Annex II to Regulation (EU) 2016/794.

Or. en