AMENDMENTS 001-207
by the Committee on Civil Liberties, Justice and Home Affairs

Report
Jan Philipp Albrecht **A7-0402/2013**
Protection of individuals with regard to the processing of personal data

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

Amendment 1

Proposal for a regulation
Recital 14

Text proposed by the Commission	*Amendment*
(14) This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law***, nor does it cover the processing of personal data by the Union institutions, bodies, offices and agencies, which are subject to*** Regulation (EC) No 45/2001[44]***, or the processing of personal data by the Member States when carrying out activities in relation to the common foreign and security policy of the Union***.	(14) This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law. Regulation (EC) No 45/2001 ***of the European Parliament and of the Council[44] should be brought in line with this Regulation and applied in accordance with this Regulation***.
[44] OJ L 8, 12.1.2001, p. 1.	***[44] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (***OJ L 8, 12.1.2001, p. 1***).***

Amendment 2

Proposal for a regulation
Recital 15

Text proposed by the Commission	*Amendment*
(15) This Regulation should not apply to processing of personal data by a natural person, which are exclusively personal or domestic, such as correspondence and the holding of addresses, and ***without any gainful interest and thus*** without any connection with a professional or commercial activity. ***The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.***	(15) This Regulation should not apply to processing of personal data by a natural person, which are exclusively personal***, family-related,*** or domestic, such as correspondence and the holding of addresses ***or a private sale*** and without any connection with a professional or commercial activity. ***However, this Regulation should apply to controllers and processors which provide the means for processing personal data for such personal or domestic activities.***

Amendment 3

Proposal for a regulation
Recital 18

Text proposed by the Commission	*Amendment*
(18) This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation.	(18) This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation. ***Personal data in documents held by a public authority or public body may be disclosed by that authority or body in accordance with Union or Member State law regarding public access to official documents, which reconciles the right to data protection with the right of public access to official documents and constitutes a fair balance of the various interests involved***.

Amendment 4

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) In order to ensure that individuals are	(20) In order to ensure that individuals are

not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects residing in the Union by a controller not established in the Union should be subject to this Regulation where the processing activities are related to the offering of goods or services to such data subjects, or to the monitoring ***of the behaviour*** of such data subjects.	not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects residing in the Union by a controller not established in the Union should be subject to this Regulation where the processing activities are related to the offering of goods or services***, irrespective of whether connected to a payment or not,*** to such data subjects, or to the monitoring of such data subjects. ***In order to determine whether such a controller is offering goods or services to such data subjects in the Union, it should be ascertained whether it is apparent that the controller is envisaging the offering of services to data subjects residing in one or more Member States in the Union.***

Amendment 5

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(21) In order to determine whether a processing activity can be considered to 'monitor ***the behaviour' of*** data subjects, it should be ascertained whether individuals are tracked ***on the internet with*** data processing techniques which consist of applying a 'profile' ***to an individual,*** particularly in order to take decisions concerning her or him or for analysing or predicting her or his personal preferences, behaviours and attitudes.	(21) In order to determine whether a processing activity can be considered to 'monitor' data subjects, it should be ascertained whether individuals are tracked***, regardless of the origins of the data, or if other data about them is collected, including from public registers and announcements in the Union that are accessible from outside of the Union, including with the intention to use, or potential of subsequent use of*** data processing techniques which consist of applying a 'profile', particularly in order to take decisions concerning her or him or for analysing or predicting her or his personal preferences, behaviours and attitudes.

Amendment 6

Proposal for a regulation
Recital 23

Text proposed by the Commission	*Amendment*
(23) The principles of protection should apply to any information concerning an identified or identifiable person. To determine whether a person is identifiable, account should be taken of all the means ***likely reasonably*** to be used either by the controller or by any other person to identify the individual. The principles of data protection should not apply to data ***rendered anonymous in such a way that the data subject is no longer identifiable***.	(23) The principles of ***data*** protection should apply to any information concerning an identified or identifiable ***natural*** person. To determine whether a person is identifiable, account should be taken of all the means ***reasonably likely*** to be used either by the controller or by any other person to identify ***or single out*** the individual ***directly or indirectly***. ***To ascertain whether means are reasonably likely to be used to identify the individual, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration both available technology at the time of the processing and technological development.*** The principles of data protection should ***therefore*** not apply to ***anonymous*** data***, which is information that does not relate to an identified or identifiable natural person***. ***This Regulation does therefore not concern the processing of such anonymous data, including for statistical and research purposes.***

Amendment 7

Proposal for a regulation
Recital 24

Text proposed by the Commission	*Amendment*
(24) ***When using online services, individuals may be associated with online*** identifiers provided by ***their*** devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers. ***This may leave traces which, combined with unique identifiers and other information received by the servers, may be used to create profiles of the***	(24) ***This Regulation should be applicable to processing involving*** identifiers provided by devices, applications, tools and protocols, such as Internet Protocol addresses, cookie identifiers ***and Radio Frequency Identification tags, unless those identifiers do not relate to an identified or identifiable natural person.***

individuals and identify them. It follows that identification numbers, location data, online identifiers or other specific factors as such need not necessarily be considered as personal data in all circumstances.

Amendment 8

Proposal for a regulation
Recital 25

Text proposed by the Commission	*Amendment*
(25) Consent should be given explicitly by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a statement or by a clear affirmative action by the data subject, ensuring that individuals are aware that they give their consent to the processing of personal data***,*** ***including by*** ticking a box when visiting an Internet website or ***by*** any other statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of their personal data. Silence or inactivity should therefore not constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.	(25) Consent should be given explicitly by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a statement or by a clear affirmative action ***that is the result of choice*** by the data subject, ensuring that individuals are aware that they give their consent to the processing of personal data***. Clear affirmative action could include*** ticking a box when visiting an Internet website or any other statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of their personal data. Silence***,*** ***mere use of a service*** or inactivity should therefore not constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.

Amendment 9

Proposal for a regulation
Recital 29

Text proposed by the Commission	*Amendment*
(29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing	(29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing

of personal data. ***To determine when an individual is a child, this Regulation should take over the definition laid down by the UN Convention on the Rights of the Child.***	of personal data. ***Where data processing is based on the data subject's consent in relation to the offering of goods or services directly to a child, consent should be given or authorised by the child's parent or legal guardian in cases where the child is below the age of 13. Age-appropriate language should be used where the intended audience is children. Other grounds of lawful processing such as grounds of public interest should remain applicable, such as for processing in the context of preventive or counselling services offered directly to a child.***

Amendment 10

Proposal for a regulation
Recital 31

Text proposed by the Commission	*Amendment*
(31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this Regulation or in other Union or Member State law as referred to in this Regulation.	(31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this Regulation or in other Union or Member State law as referred to in this Regulation. ***In case of a child or a person lacking legal capacity, relevant Union or Member State law should determine the conditions under which consent is given or authorised by that person.***

Amendment 11

Proposal for a regulation
Recital 32

Text proposed by the Commission	*Amendment*
(32) Where processing is based on the data subject's consent, the controller should have the burden of proving that the data subject has given the consent to the processing operation. In particular in the context of a written declaration on another matter, safeguards should ensure that the	(32) Where processing is based on the data subject's consent, the controller should have the burden of proving that the data subject has given the consent to the processing operation. In particular in the context of a written declaration on another matter, safeguards should ensure that the

data subject is aware that and to what extent consent is given.	data subject is aware that and to what extent consent is given. ***To comply with the principle of data minimisation, the burden of proof should not be understood as requiring the positive identification of data subjects unless necessary. Similar to civil law terms (e.g. Council Directive 93/13/EEC[44a]), data protection policies should be as clear and transparent as possible. They should not contain hidden or disadvantageous clauses. Consent can not be given for the processing of personal data of third persons.***
	[44a] Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Amendment 12

Proposal for a regulation
Recital 33

Text proposed by the Commission	*Amendment*
(33) In order to ensure free consent, it should be clarified that consent does not provide a valid legal ground where the individual has no genuine and free choice and is subsequently not able to refuse or withdraw consent without detriment.	(33) In order to ensure free consent, it should be clarified that consent does not provide a valid legal ground where the individual has no genuine and free choice and is subsequently not able to refuse or withdraw consent without detriment. ***This is especially the case if the controller is a public authority that can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given. The use of default options which the data subject is required to modify to object to the processing, such as pre-ticked boxes, does not express free consent. Consent for the processing of additional personal data that are not necessary for the provision of a service should not be required for using the service. When consent is withdrawn, this may allow the termination or non-execution of a service which is dependent on the data. Where the conclusion of the intended purpose is unclear, the controller should in regular intervals***

	provide the data subject with information about the processing and request a re-affirmation of their consent.

Amendment 13

Proposal for a regulation
Recital 34

Text proposed by the Commission	*Amendment*
(34) Consent should not provide a valid legal ground for the processing of personal data, where there is a clear imbalance between the data subject and the controller. This is especially the case where the data subject is in a situation of dependence from the controller, among others, where personal data are processed by the employer of employees' personal data in the employment context. Where the controller is a public authority, there would be an imbalance only in the specific data processing operations where the public authority can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject.	***deleted***

Amendment 14

Proposal for a regulation
Recital 36

Text proposed by the Commission	*Amendment*
(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. It is also for Union or national	(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. ***This should include also***

law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.

collective agreements that could be recognised under national law as having general validity. It is also for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.

Amendment 15

Proposal for a regulation
Recital 38

Text proposed by the Commission	*Amendment*
(38) The legitimate interests of ***a*** controller may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding. This would need careful assessment in particular where the data subject is a child, given that children deserve specific protection. The data subject should have the right to object the processing***, on grounds relating to their particular situation and*** free of charge. To ensure transparency, the controller should be obliged to explicitly inform the data subject on the legitimate interests pursued and on the right to object, and also be obliged to document these legitimate interests. Given that it is for the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.	(38) The legitimate interests of ***the*** controller***, or in case of disclosure, of the third party to whom the data is disclosed,*** may provide a legal basis for processing, provided ***that they meet the reasonable expectations of the data subject based on his or her relationship with the controller and*** that the interests or the fundamental rights and freedoms of the data subject are not overriding. This would need careful assessment in particular where the data subject is a child, given that children deserve specific protection. ***Provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, processing limited to pseudonymous data should be presumed to meet the reasonable expectations of the data subject based on his or her relationship with the controller.*** The data subject should have the right to object the processing free of charge. To ensure transparency, the controller should be obliged to explicitly inform the data subject on the legitimate interests pursued and on the right to object, and also be obliged to document these legitimate interests. ***The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are***

	processed in circumstances where data subjects do not reasonably expect further processing. Given that it is for the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.

Amendment 16

Proposal for a regulation
Recital 39

Text proposed by the Commission	*Amendment*
(39) The processing of data to the extent strictly necessary for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist***, at a given level of confidence,*** accidental events or ***unlawful or*** malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data, and the security of the related services offered by***, or accessible via,*** these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services, constitutes a legitimate interest of the concerned data controller. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping 'denial of service' attacks and damage to computer and electronic communication systems.	(39) The processing of data to the extent strictly necessary ***and proportionate*** for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist accidental events or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data, and the security of the related services offered by these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services constitutes a legitimate interest of the concerned data controller. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping 'denial of service' attacks and damage to computer and electronic communication systems. ***This principle also applies to processing of personal data to restrict abusive access to and use of publicly available network or information systems, such as the blacklisting of electronic identifiers.***

Amendment 17

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission	*Amendment*
	(39a) Provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, the prevention or limitation of damages on the side of the data controller should be presumed as carried out for the legitimate interest of the data controller or, in case of disclosure, of the third party to whom the data is disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller. The same principle also applies to the enforcement of legal claims against a data subject, such as debt collection or civil damages and remedies.

Amendment 18

Proposal for a regulation
Recital 39 b (new)

Text proposed by the Commission	*Amendment*
	(39b) Provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, the processing of personal data for the purpose of direct marketing for own or similar products and services or for the purpose of postal direct marketing should be presumed as carried out for the legitimate interest of the controller, or in case of disclosure, of the third party to whom the data is disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller if highly visible information on the right to object and on the source of the personal data is given. The processing of business contact details should be generally regarded as carried out for the legitimate interest of the controller, or in case of disclosure, of

	the third party to whom the data is disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller. The same should apply to the processing of personal data made manifestly public by the data subject.

Amendment 19

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) The processing of personal data for other purposes should be only allowed where the processing is compatible with those purposes for which the data have been initially collected, in particular where the processing is necessary for historical, statistical or scientific research purposes. Where the other purpose is not compatible with the initial one for which the data are collected, the controller should obtain the consent of the data subject for this other purpose or should base the processing on another legitimate ground for lawful processing, in particular where provided by Union law or the law of the Member State to which the controller is subject. In any case, the application of the principles set out by this Regulation and in particular the information of the data subject on those other purposes should be ensured.	***deleted***

Amendment 20

Proposal for a regulation
Recital 41

Text proposed by the Commission	*Amendment*
(41) Personal data which are, by their nature, particularly sensitive and vulnerable in relation to fundamental rights or privacy, deserve specific protection. Such data should not be processed, unless the data subject gives	***deleted***

his explicit consent. However, derogations from this prohibition should be explicitly provided for in respect of specific needs, in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.	

Amendment 21

Proposal for a regulation
Recital 42

Text proposed by the Commission	*Amendment*
(42) Derogating from the prohibition on processing sensitive categories of data should also be allowed if done by a law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify and in particular for health purposes, including public health and social protection and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, ***or*** for historical, statistical and scientific research purposes.	(42) Derogating from the prohibition on processing sensitive categories of data should also be allowed if done by a law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify and in particular for health purposes, including public health and social protection and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, for historical, statistical and scientific research purposes***, or for archive services***.

Amendment 22

Proposal for a regulation
Recital 45

Text proposed by the Commission	*Amendment*
(45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. In case of a request for access, the controller should be entitled to ask the data subject	(45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. In case of a request for access, the controller should be entitled to ask the data subject

for further information to enable the data controller to locate the personal data which that person seeks.	for further information to enable the data controller to locate the personal data which that person seeks. ***If it is possible for the data subject to provide such data, controllers should not be able to invoke a lack of information to refuse an access request.***

Amendment 23

Proposal for a regulation
Recital 47

Text proposed by the Commission	*Amendment*
(47) Modalities should be provided for facilitating the data subject's exercise of their rights provided by this Regulation, including mechanisms to ***request***, free of charge, in particular access to data, rectification, erasure and to exercise the right to object. The controller should be obliged to respond to requests of the data subject within a ***fixed*** deadline and give reasons, in case he does not comply with the data subject's request.	(47) Modalities should be provided for facilitating the data subject's exercise of their rights provided by this Regulation, including mechanisms to ***obtain***, free of charge, in particular access to data, rectification, erasure and to exercise the right to object. The controller should be obliged to respond to requests of the data subject within a ***reasonable*** deadline and give reasons, in case he does not comply with the data subject's request.

Amendment 24

Proposal for a regulation
Recital 48

Text proposed by the Commission	*Amendment*
(48) The principles of fair and transparent processing require that the data subject should be informed in particular of the existence of the processing operation and its purposes, how long the data will be stored**,** on the existence of the right of access, rectification or erasure and on the right to lodge a complaint. Where the data are collected from the data subject, the data subject should also be informed whether they are obliged to provide the data and of the consequences, in cases they do not provide such data.	(48) The principles of fair and transparent processing require that the data subject should be informed in particular of the existence of the processing operation and its purposes, how long the data will be ***likely*** stored ***for each purpose***, ***if the data are to be transferred to third parties or third countries,*** on the existence ***of measures to object and*** of the right of access, rectification or erasure and on the right to lodge a complaint. Where the data are collected from the data subject, the data subject should also be informed whether they are obliged to provide the data and of the consequences, in cases they do not provide such data. ***This information***

	should be provided, which can also mean made readily available, to the data subject after the provision of simplified information in the form of standardised icons. This should also mean that personal data are processed in a way that effectively allows the data subject to exercise his or her rights.

Amendment 25

Proposal for a regulation
Recital 50

Text proposed by the Commission	*Amendment*
(50) However, it is not necessary to impose this obligation where the data subject already ***disposes of*** this information, or where the recording or disclosure of the data is expressly laid down by law, or where the provision of information to the data subject proves impossible or would involve disproportionate efforts. ***The latter could be particularly the case where processing is for historical, statistical or scientific research purposes; in this regard, the number of data subjects, the age of the data, and any compensatory measures adopted may be taken into consideration.***	(50) However, it is not necessary to impose this obligation where the data subject already ***knows*** this information, or where the recording or disclosure of the data is expressly laid down by law, or where the provision of information to the data subject proves impossible or would involve disproportionate efforts.

Amendment 26

Proposal for a regulation
Recital 51

Text proposed by the Commission	*Amendment*
(51) Any person should have the right of access to data which has been collected concerning them, and to exercise this right easily, in order to be aware and verify the lawfulness of the processing. Every data subject should therefore have the right to know and obtain communication in particular for what purposes the data are processed, for what period, which recipients receive the data, what is the logic of the data that are undergoing the	(51) Any person should have the right of access to data which has been collected concerning them, and to exercise this right easily, in order to be aware and verify the lawfulness of the processing. Every data subject should therefore have the right to know and obtain communication in particular for what purposes the data are processed, for what ***estimated*** period, which recipients receive the data, what is the ***general*** logic of the data that are

processing and what might be***, at least when based on profiling,*** the consequences of such processing. This right should not adversely affect the rights and freedoms of others, including trade secrets or intellectual property ***and in particular*** the copyright protecting the software. However, the result of these considerations should not be that all information is refused to the data subject.	undergoing the processing and what might be the consequences of such processing. This right should not adversely affect the rights and freedoms of others, including trade secrets or intellectual property, ***such as in relation to*** the copyright protecting the software. However, the result of these considerations should not be that all information is refused to the data subject.

Amendment 27

Proposal for a regulation
Recital 53

Text proposed by the Commission	*Amendment*
(53) Any person should have the right to have personal data concerning them rectified and a 'right to ***be forgotten***' where the retention of such data is not in compliance with this Regulation. In particular, data subjects should have the right that their personal data are erased and no longer processed, where the data are no longer necessary in relation to the purposes for which the data are collected or otherwise processed, where data subjects have withdrawn their consent for processing or where they object to the processing of personal data concerning them or where the processing of their personal data otherwise does not comply with this Regulation. ***This right is particularly relevant, when the data subject has given their consent as a child, when not being fully aware of the risks involved by the processing, and later wants to remove such personal data especially on the Internet.*** However, the further retention of the data should be allowed where it is necessary for historical, statistical and scientific research purposes, for reasons of public interest in the area of public health, for exercising the right of freedom of expression, when required by law or where there is a reason to restrict the processing of the data instead of erasing	(53) Any person should have the right to have personal data concerning them rectified and a 'right to ***erasure***' where the retention of such data is not in compliance with this Regulation. In particular, data subjects should have the right that their personal data are erased and no longer processed, where the data are no longer necessary in relation to the purposes for which the data are collected or otherwise processed, where data subjects have withdrawn their consent for processing or where they object to the processing of personal data concerning them or where the processing of their personal data otherwise does not comply with this Regulation. However, the further retention of the data should be allowed where it is necessary for historical, statistical and scientific research purposes, for reasons of public interest in the area of public health, for exercising the right of freedom of expression, when required by law or where there is a reason to restrict the processing of the data instead of erasing them. ***Also, the right to erasure should not apply when the retention of personal data is necessary for the performance of a contract with the data subject, or when there is a legal obligation to retain this data.***

them.

Amendment 28

Proposal for a regulation
Recital 54

Text proposed by the Commission	*Amendment*
(54) To strengthen the 'right to ***be forgotten***' in the online environment, the right to erasure should also be extended in such a way that a controller who has made the personal data public should be obliged to ***inform third parties which are processing such data that a data subject requests them to erase any links to, or copies or replications of that personal data. To ensure this information, the controller should take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible. In relation to a third party publication of personal data, the controller should be considered responsible for the publication, where the controller has authorised the publication by the third party.***	(54) To strengthen the 'right to ***erasure*** ' in the online environment, the right to erasure should also be extended in such a way that a controller who has made the personal data public ***without legal justification*** should be obliged to ***take all necessary steps to have the data erased, including by third parties, without prejudice to the right of the data subject to claim compensation.***

Amendment 29

Proposal for a regulation
Recital 54 a (new)

Text proposed by the Commission	*Amendment*
	(54a) Data which are contested by the data subject and whose accuracy or inaccuracy cannot be determined should be blocked until the issue is cleared.

Amendment 30

Proposal for a regulation
Recital 55

Text proposed by the Commission	*Amendment*
(55) To further strengthen the control over their own data and their right of access, data subjects should have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain a copy of the data concerning them also in commonly used electronic format. The data subject should also be allowed to transmit those data, which they have provided, from one automated application, such as a social network, into another one. This should apply where the data subject provided the data to the automated processing system, based on their consent or in the performance of a contract.	(55) To further strengthen the control over their own data and their right of access, data subjects should have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain a copy of the data concerning them also in commonly used electronic format. The data subject should also be allowed to transmit those data, which they have provided, from one automated application, such as a social network, into another one. ***Data controllers should be encouraged to develop interoperable formats that enable data portability.*** This should apply where the data subject provided the data to the automated processing system, based on their consent or in the performance of a contract. ***Providers of information society services should not make the transfer of those data mandatory for the provision of their services.***

Amendment 31
Proposal for a regulation
Recital 56

Text proposed by the Commission	*Amendment*
(56) In cases where personal data might lawfully be processed to protect the vital interests of the data subject, or on grounds of public interest, official authority or the legitimate interests of a controller, any data subject should nevertheless be entitled to object to the processing of any data relating to them. The burden of proof should be on the controller to demonstrate that their legitimate interests may override the interests or the fundamental rights and freedoms of the data subject**.**	(56) In cases where personal data might lawfully be processed to protect the vital interests of the data subject, or on grounds of public interest, official authority or the legitimate interests of a controller, any data subject should nevertheless be entitled to object to the processing of any data relating to them***, free of charge and in a manner that can be easily and effectively invoked***. The burden of proof should be on the controller to demonstrate that their legitimate interests may override the interests or the fundamental rights and

freedoms of the data subject.

Amendment 32

Proposal for a regulation
Recital 57

Text proposed by the Commission	*Amendment*
(57) Where ***personal data are processed for the purposes of direct marketing,*** the data subject ***should have*** the right to object to ***such*** processing ***free of charge and in a manner that can be easily and effectively invoked.***	(57) Where the data subject ***has*** the right to object to ***the*** processing***, the controller should explicitly offer it to the data subject in an intelligible manner and form, using clear and plain language and should clearly distinguish it from other information.***

Amendment 33

Proposal for a regulation
Recital 58

Text proposed by the Commission	*Amendment*
(58) Every natural person should have the right ***not to be subject*** to ***a measure which is based on*** profiling ***by means of automated processing***. ***However, such measure*** should be allowed when expressly authorised by law, carried out in the course of entering or performance of a contract, or when the data subject has given his consent. In any case, such processing should be subject to suitable safeguards, including specific information of the data subject and the right to obtain human ***intervention*** and that such measure should not concern a child.	(58) ***Without prejudice to the lawfulness of the data processing***, every natural person should have the right ***to object*** to profiling. ***Profiling which leads to measures producing legal effects concerning the data subject or does similarly significantly affect the interests, rights or freedoms of the concerned data subject*** should ***only*** be allowed when expressly authorised by law, carried out in the course of entering or performance of a contract, or when the data subject has given his consent. The In any case, such processing should be subject to suitable safeguards, including specific information of the data subject and the right to obtain human ***assessment*** and that such measure should not concern a child. ***Such measures should not lead to discrimination against individuals on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity.***

Amendment 34

Proposal for a regulation
Recital 58 a (new)

Text proposed by the Commission	*Amendment*
	(58a) Profiling based solely on the processing of pseudonymous data should be presumed not to significantly affect the interests, rights or freedoms of the data subject. Where profiling, whether based on a single source of pseudonymous data or on the aggregation of pseudonymous data from different sources, permits the controller to attribute pseudonymous data to a specific data subject, the processed data should no longer be considered to be pseudonymous.

Amendment 35

Proposal for a regulation
Recital 59

Text proposed by the Commission	*Amendment*
(59) Restrictions on specific principles and on the rights of information, ***access,*** rectification and erasure or on the right to data ***portability***, the right to object, ***measures based on*** profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or the protection of the data subject or the rights and freedoms of others. Those restrictions should be in	(59) Restrictions on specific principles and on the rights of information, rectification and erasure or on the right of ***access and to obtain*** data, the right to object, profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other ***specific and well-defined*** public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or the protection of the data subject or the rights and freedoms of others. Those restrictions should be in compliance with requirements

compliance with requirements set out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.	set out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Amendment 36

Proposal for a regulation
Recital 60

Text proposed by the Commission	*Amendment*
(60) Comprehensive responsibility and liability of the controller for any processing of personal data carried out by the controller or on the controller's behalf should be established. In particular, the controller should ensure and be ***obliged*** to demonstrate the compliance of each processing operation with this Regulation.	(60) Comprehensive responsibility and liability of the controller for any processing of personal data carried out by the controller or on the controller's behalf should be established***, in particular with regard to documentation, data security, impact assessments, the data protection officer and oversight by data protection authorities***. In particular, the controller should ensure and be ***able*** to demonstrate the compliance of each processing operation with this Regulation. ***This should be verified by independent internal or external auditors.***

Amendment 37

Proposal for a regulation
Recital 61

Text proposed by the Commission	*Amendment*
(61) The protection of the rights and freedoms of data subjects with regard to the processing of personal data require that appropriate technical and organisational measures are taken, both at the time of the design of the processing and at the time of the processing itself, to ensure that the requirements of this Regulation are met. In order to ensure and demonstrate compliance with this Regulation, the controller should adopt internal policies and implement appropriate measures, which meet in particular the principles of data protection by design and data	(61) The protection of the rights and freedoms of data subjects with regard to the processing of personal data require that appropriate technical and organisational measures are taken, both at the time of the design of the processing and at the time of the processing itself, to ensure that the requirements of this Regulation are met. In order to ensure and demonstrate compliance with this Regulation, the controller should adopt internal policies and implement appropriate measures, which meet in particular the principles of data protection by design and data protection by default. ***The principle of data***

protection by default.	***protection by design require data protection to be embedded within the entire life cycle of the technology, from the very early design stage, right through to its ultimate deployment, use and final disposal. This should also include the responsibility for the products and services used by the controller or processor. The principle of data protection by default requires privacy settings on services and products which should by default comply with the general principles of data protection, such as data minimisation and purpose limitation.***

Amendment 38

Proposal for a regulation
Recital 62

Text proposed by the Commission	*Amendment*
(62) The protection of the rights and freedoms of data subjects as well as the responsibility and liability of controllers and processor, also in relation to the monitoring by and measures of supervisory authorities, requires a clear attribution of the responsibilities under this Regulation, including where a controller determines the purposes, conditions and means of the processing jointly with other controllers or where a processing operation is carried out on behalf of a controller.	(62) The protection of the rights and freedoms of data subjects as well as the responsibility and liability of controllers and processor, also in relation to the monitoring by and measures of supervisory authorities, requires a clear attribution of the responsibilities under this Regulation, including where a controller determines the purposes of the processing jointly with other controllers or where a processing operation is carried out on behalf of a controller. ***The arrangement between the joint controllers should reflect the joint controllers' effective roles and relationships. The processing of personal data under this Regulation should include the permission for a controller to transmit the data to a joint controller or to a processor for the processing of the data on their behalf.***

Amendment 39

Proposal for a regulation
Recital 63

Text proposed by the Commission	*Amendment*
(63) Where a controller not established in the Union is processing personal data of data subjects ***residing*** in the Union ***whose processing activities are related to the offering of goods or services to such data subjects, or to the monitoring their behaviour***, the controller should designate a representative, unless the controller is established in a third country ensuring an adequate level of protection, or the ***controller is a small or medium sized enterprise or*** a public authority or body or where the controller is only occasionally offering goods or services to such data subjects. The representative should act on behalf of the controller and may be addressed by any supervisory authority.	(63) Where a controller not established in the Union is processing personal data of data subjects in the Union, the controller should designate a representative, unless the controller is established in a third country ensuring an adequate level of protection, or the ***processing relates to fewer than 5000 data subjects during any consecutive 12-month period and is not carried out on special categories of personal data, or is*** a public authority or body or where the controller is only occasionally offering goods or services to such data subjects. The representative should act on behalf of the controller and may be addressed by any supervisory authority.

Amendment 40

Proposal for a regulation
Recital 64

Text proposed by the Commission	*Amendment*
(64) In order to determine whether a controller is only occasionally offering goods and services to data subjects ***residing*** in the Union, it should be ascertained whether it is apparent from the controller's overall activities that the offering of goods and services to such data subjects is ancillary to those main activities.	(64) In order to determine whether a controller is only occasionally offering goods and services to data subjects in the Union, it should be ascertained whether it is apparent from the controller's overall activities that the offering of goods and services to such data subjects is ancillary to those main activities.

Amendment 41

Proposal for a regulation
Recital 65

Text proposed by the Commission	*Amendment*
(65) In order to demonstrate compliance	(65) In order to ***be able to*** demonstrate

with this Regulation, the controller or processor should ***document each processing operation***. Each controller and processor should be obliged to co-operate with the supervisory authority and make this documentation, on request, available to it, so that it might serve for ***monitoring those processing operations***.	compliance with this Regulation, the controller or processor should ***maintain the documentation necessary in order to fulfill the requirements laid down in this Regulation.*** Each controller and processor should be obliged to co-operate with the supervisory authority and make this documentation, on request, available to it, so that it might serve for ***evaluating the compliance with this Regulation***. ***However, equal emphasis and significance should be placed on good practice and compliance and not just the completion of documentation.***

Amendment 42

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) In order to maintain security and to prevent processing in breach of this Regulation, the controller or processor should evaluate the risks inherent to the processing and implement measures to mitigate those risks. These measures should ensure an appropriate level of security, taking into account the state of the art and the costs of their implementation in relation to the risks and the nature of the personal data to be protected. When establishing technical standards and organisational measures to ensure security of processing, ***the Commission should promote*** technological neutrality, interoperability and innovation, and, where appropriate, ***cooperate*** with third countries.	(66) In order to maintain security and to prevent processing in breach of this Regulation, the controller or processor should evaluate the risks inherent to the processing and implement measures to mitigate those risks. These measures should ensure an appropriate level of security, taking into account the state of the art and the costs of their implementation in relation to the risks and the nature of the personal data to be protected. When establishing technical standards and organisational measures to ensure security of processing, technological neutrality, interoperability and innovation ***should be promoted***, and, where appropriate, ***cooperation*** with third countries ***should be encouraged.***

Amendment 43

Proposal for a regulation
Recital 67

Text proposed by the Commission	*Amendment*
(67) A personal data breach may, if not addressed in an adequate and timely	(67) A personal data breach may, if not addressed in an adequate and timely

manner, result in substantial economic loss and social harm, including identity fraud, to the individual concerned. Therefore***, as soon as the controller becomes aware that such a breach has occurred***, the controller should notify the breach to the supervisory authority without undue delay ***and, where feasible, within 24*** hours. ***Where this cannot achieved within 24 hours***, an explanation of the reasons for the delay should accompany the notification. The individuals whose personal data could be adversely affected by the breach should be notified without undue delay in order to allow them to take the necessary precautions. A breach should be considered as adversely affecting the personal data or privacy of a data subject where it could result in, for example, identity theft or fraud, physical harm, significant humiliation or damage to reputation. The notification should describe the nature of the personal data breach as well as recommendations as well as recommendations for the individual concerned to mitigate potential adverse effects. Notifications to data subjects should be made as soon as reasonably feasible, and in close cooperation with the supervisory authority and respecting guidance provided by it or other relevant authorities (e.g. law enforcement authorities). For example, the chance for data subjects to mitigate an immediate risk of harm would call for a prompt notification of data subjects whereas the need to implement appropriate measures against continuing or similar data breaches may justify a longer delay.	manner, result in substantial economic loss and social harm, including identity fraud, to the individual concerned. Therefore, the controller should notify the breach to the supervisory authority without undue delay***, which should be presumed to be not later than 72*** hours. ***If applicable***, an explanation of the reasons for the delay should accompany the notification. The individuals whose personal data could be adversely affected by the breach should be notified without undue delay in order to allow them to take the necessary precautions. A breach should be considered as adversely affecting the personal data or privacy of a data subject where it could result in, for example, identity theft or fraud, physical harm, significant humiliation or damage to reputation. The notification should describe the nature of the personal data breach as well as recommendations as well as recommendations for the individual concerned to mitigate potential adverse effects. Notifications to data subjects should be made as soon as reasonably feasible, and in close cooperation with the supervisory authority and respecting guidance provided by it or other relevant authorities (e.g. law enforcement authorities). For example, the chance for data subjects to mitigate an immediate risk of harm would call for a prompt notification of data subjects whereas the need to implement appropriate measures against continuing or similar data breaches may justify a longer delay.

Amendment 44

Proposal for a regulation
Recital 71 a (new)

Text proposed by the Commission	*Amendment*
	(71a) Impact assessments are the essential core of any sustainable data protection framework, making sure that businesses

	are aware from the outset of all possible consequences of their data processing operations. If impact assessments are thorough, the likelihood of any data breach or privacy-intrusive operation can be fundamentally limited. Data protection impact assessments should consequently have regard to the entire lifecycle management of personal data from collection to processing to deletion, describing in detail the envisaged processing operations, the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure compliance with the regulation.

Amendment 45

Proposal for a regulation
Recital 71 b (new)

Text proposed by the Commission	*Amendment*
	(71b) Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism.

Amendment 46

Proposal for a regulation
Recital 73

Text proposed by the Commission	*Amendment*
(73) Data protection impact assessments should be carried out by a public authority or public body if such an assessment has not already been made in the context of the adoption of the national law on which the performance of the tasks of the public authority or public body is based and which regulates the specific processing operation or set of operations	***deleted***

in question.

Amendment 47

Proposal for a regulation
Recital 74

Text proposed by the Commission	*Amendment*
(74) Where a data protection impact assessment indicates that processing operations involve a high degree of specific risks to the rights and freedoms of data subjects, such as excluding individuals from their right, or by the use of specific new technologies, the supervisory authority should be consulted, prior to the start of operations, on a risky processing which might not be in compliance with this Regulation, and to make proposals to remedy such situation. ***Such*** consultation should equally take place in the course of the preparation either of a measure by the national parliament or of a measure based on such legislative measure which defines the nature of the processing and lays down appropriate safeguards.	(74) Where a data protection impact assessment indicates that processing operations involve a high degree of specific risks to the rights and freedoms of data subjects, such as excluding individuals from their right, or by the use of specific new technologies, ***the data protection officer or*** the supervisory authority should be consulted, prior to the start of operations, on a risky processing which might not be in compliance with this Regulation, and to make proposals to remedy such situation. ***A*** consultation ***of the supervisory authority*** should equally take place in the course of the preparation either of a measure by the national parliament or of a measure based on such legislative measure which defines the nature of the processing and lays down appropriate safeguards.

Amendment 48

Proposal for a regulation
Recital 74 a (new)

Text proposed by the Commission	*Amendment*
	(74a) Impact assessments can only be of help if controllers make sure that they comply with the promises originally laid down in them. Data controllers should therefore conduct periodic data protection compliance reviews demonstrating that the data processing mechanisms in place comply with assurances made in the data protection impact assessment. It should further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects. In addition, in case the review finds compliance

inconsistencies, it should highlight these and present recommendations on how to achieve full compliance.

Amendment 49

Proposal for a regulation
Recital 75

Text proposed by the Commission	*Amendment*
(75) Where the processing is carried out in the public sector or where, in the private sector, processing ***is carried out by a large enterprise***, or where its core activities, regardless of the size of the enterprise, involve processing operations which require regular and systematic monitoring, a person should assist the controller or processor to monitor internal compliance with this Regulation. Such data protection officers, whether or not an employee of the controller, should be in a position to perform their duties and tasks independently.	(75) Where the processing is carried out in the public sector or where, in the private sector, processing ***relates to more than 5000 data subjects within 12 months***, or where its core activities, regardless of the size of the enterprise, involve processing operations ***on sensitive data, or processing operations*** which require regular and systematic monitoring, a person should assist the controller or processor to monitor internal compliance with this Regulation. ***When establishing whether data about a large number of data subjects are processed, archived data that is restricted in such a way that they are not subject to the normal data access and processing operations of the controller and can no longer be changed should not be taken into account.*** Such data protection officers, whether or not an employee of the controller ***and whether or not performing that task full time***, should be in a position to perform their duties and tasks independently ***and enjoy special protection against dismissal. Final responsibility should stay with the management of an organisation. The data protection officer should in particular be consulted prior to the design, procurement, development and setting-up of systems for the automated processing of personal data, in order to ensure the principles of privacy by design and privacy by default.***

Amendment 50

Proposal for a regulation
Recital 75 a (new)

Text proposed by the Commission	*Amendment*
	(75a) The data protection officer should have at least the following qualifications: extensive knowledge of the substance and application of data protection law, including technical and organisational measures and procedures; mastery of technical requirements for privacy by design, privacy by default and data security; industry-specific knowledge in accordance with the size of the controller or processor and the sensitivity of the data to be processed; the ability to carry out inspections, consultation, documentation, and log file analysis; and the ability to work with employee representation. The controller should enable the data protection officer to take part in advanced training measures to maintain the specialized knowledge required to perform his or her duties. The designation as a data protection officer does not necessarily require fulltime occupation of the respective employee.

Amendment 51

Proposal for a regulation
Recital 76

Text proposed by the Commission	*Amendment*
(76) Associations or other bodies representing categories of controllers should be encouraged to draw up codes of conduct, within the limits of this Regulation, so as to facilitate the effective application of this Regulation, taking account of the specific characteristics of the processing carried out in certain sectors.	(76) Associations or other bodies representing categories of controllers should be encouraged***, after consultation of the representatives of the employees,*** to draw up codes of conduct, within the limits of this Regulation, so as to facilitate the effective application of this Regulation, taking account of the specific characteristics of the processing carried out in certain sectors. ***Such codes should make compliance with this Regulation easier for industry.***

Amendment 52

Proposal for a regulation
Recital 77

Text proposed by the Commission	*Amendment*
(77) In order to enhance transparency and compliance with this Regulation, the establishment of certification mechanisms, data protection seals and marks should be encouraged, allowing data subjects to quickly assess the level of data protection of relevant products and services.	(77) In order to enhance transparency and compliance with this Regulation, the establishment of certification mechanisms, data protection seals and ***standardised*** marks should be encouraged, allowing data subjects to quickly**,** ***reliably and verifiably*** assess the level of data protection of relevant products and services. ***A "European Data Protection Seal" should be established on the European level to 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 53

Proposal for a regulation
Recital 79

Text proposed by the Commission	*Amendment*
(79) This Regulation is without prejudice to international agreements concluded between the Union and third countries regulating the transfer of personal data including appropriate safeguards for the data subjects.	(79) This Regulation is without prejudice to international agreements concluded between the Union and third countries regulating the transfer of personal data including appropriate safeguards for the data subjects ***ensuring an adequate level of protection for the fundamental rights of citizens***.

Amendment 54

Proposal for a regulation
Recital 80

Text proposed by the Commission	*Amendment*
(80) The Commission may decide with effect for the entire Union that certain third countries, or a territory or a processing	(80) The Commission may decide with effect for the entire Union that certain third countries, or a territory or a processing

sector within a third country, or an international organisation, offer an adequate level of data protection, thus providing legal certainty and uniformity throughout the Union as regards the third countries or international organisations which are considered to provide such level of protection. ***In these cases, transfers of personal data to these countries may take place without needing to obtain any further authorisation.***	sector within a third country, or an international organisation, offer an adequate level of data protection, thus providing legal certainty and uniformity throughout the Union as regards the third countries or international organisations which are considered to provide such level of protection. ***The Commission may also decide, having given notice and a complete justification to the third country, to revoke such a decision.***

Amendment 55

Proposal for a regulation
Recital 82

Text proposed by the Commission	*Amendment*
(82) The Commission may equally recognise that a third country, or a territory or a processing sector within a third country, or an international organisation offers no adequate level of data protection. Consequently the transfer of personal data to that third country should be prohibited. In that case, provision should be made for consultations between the Commission and such third countries or international organisations.	(82) The Commission may equally recognise that a third country, or a territory or a processing sector within a third country, or an international organisation offers no adequate level of data protection. ***Any legislation which provides for extra-territorial access to personal data processed in the Union without authorisation under Union or Member State law should be considered as an indication of a lack of adequacy.*** Consequently the transfer of personal data to that third country should be prohibited. In that case, provision should be made for consultations between the Commission and such third countries or international organisations.

Amendment 56

Proposal for a regulation
Recital 83

Text proposed by the Commission	*Amendment*
(83) In the absence of an adequacy decision, the controller or processor should take measures to compensate for the lack of data protection in a third country by way of appropriate safeguards for the data	(83) In the absence of an adequacy decision, the controller or processor should take measures to compensate for the lack of data protection in a third country by way of appropriate safeguards for the data

subject. Such appropriate safeguards may consist of making use of binding corporate rules, standard data protection clauses adopted by the Commission, standard data protection clauses adopted by a supervisory authority or contractual clauses authorised by a supervisory authority***, or other suitable and proportionate measures justified in the light of all the circumstances surrounding a data transfer operation or set of data transfer operations and where authorised by a supervisory authority***.	subject. Such appropriate safeguards may consist of making use of binding corporate rules, standard data protection clauses adopted by the Commission, standard data protection clauses adopted by a supervisory authority or contractual clauses authorised by a supervisory authority. ***Those appropriate safeguards should uphold a respect of the data subject rights adequate to intra-EU processing, in particular relating to purpose limitation, right to access, rectification, erasure and to claim compensation. Those safeguards should in particular guarantee the observance of the principles of personal data processing, safeguard data subject rights and provide for effective redress mechanisms, ensure the observance of the principles of data protection by design and by default, guarantee the existence of a data protection officer.***

Amendment 57

Proposal for a regulation
Recital 84

Text proposed by the Commission	*Amendment*
(84) The possibility for the controller or processor to use standard data protection clauses adopted by the Commission or by a supervisory authority should neither prevent the possibility for controllers or processors to include the standard data protection clauses in a wider contract nor to add other clauses as long as they do not contradict, directly or indirectly, the standard contractual clauses adopted ***by the Commission or*** by a supervisory authority or prejudice the fundamental rights or freedoms of the data subjects.	(84) The possibility for the controller or processor to use standard data protection clauses adopted by the Commission or by a supervisory authority should neither prevent the possibility for controllers or processors to include the standard data protection clauses in a wider contract nor to add other clauses ***or supplementary safeguards*** as long as they do not contradict, directly or indirectly, the standard contractual clauses adopted by a supervisory authority or prejudice the fundamental rights or freedoms of the data subjects. ***The standard data protection clauses adopted by the Commission could cover different situations, namely transfers from controllers established in the European Union to controllers established outside the European Union and from controllers established in the European Union to processors, including***

	sub-processors, established outside the European Union. Controllers and processors should be encouraged to provide even more robust safeguards via additional contractual commitments that supplement standard protection clauses.

Amendment 58

Proposal for a regulation
Recital 85

Text proposed by the Commission	*Amendment*
(85) A corporate group should be able to make use of approved binding corporate rules for its international transfers from the Union to organisations within the same corporate group of undertakings, as long as such corporate rules include essential principles and enforceable rights to ensure appropriate safeguards for transfers or categories of transfers of personal data.	(85) A corporate group should be able to make use of approved binding corporate rules for its international transfers from the Union to organisations within the same corporate group of undertakings, as long as such corporate rules include ***all*** essential principles and enforceable rights to ensure appropriate safeguards for transfers or categories of transfers of personal data.

Amendment 59

Proposal for a regulation
Recital 86

Text proposed by the Commission	*Amendment*
(86) Provisions should be made for the possibility for transfers in certain circumstances where the data subject has given his consent, where the transfer is necessary in relation to a contract or a legal claim, where important grounds of public interest laid down by Union or Member State law so require or where the transfer is made from a register established by law and intended for consultation by the public or persons having a legitimate interest. In this latter case such a transfer should not involve the entirety of the data or entire categories of the data contained in the register and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons	(86) Provisions should be made for the possibility for transfers in certain circumstances where the data subject has given his consent, where the transfer is necessary in relation to a contract or a legal claim, where important grounds of public interest laid down by Union or Member State law so require or where the transfer is made from a register established by law and intended for consultation by the public or persons having a legitimate interest. In this latter case such a transfer should not involve the entirety of the data or entire categories of the data contained in the register and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons or if they are to be the recipients***, taking***

or if they are to be the recipients.	***into full account the interests and fundamental rights of the data subject***.

Amendment 60

Proposal for a regulation
Recital 87

Text proposed by the Commission	*Amendment*
(87) These derogations should in particular apply to data transfers required and necessary for the protection of important grounds of public interest, for example in cases of international data transfers between competition authorities, tax or customs administrations, financial supervisory authorities, between services competent for social security matters, or to competent authorities for the prevention, investigation, detection and prosecution of criminal offences.	(87) These derogations should in particular apply to data transfers required and necessary for the protection of important grounds of public interest, for example in cases of international data transfers between competition authorities, tax or customs administrations, financial supervisory authorities, between services competent for social security matters ***or for public health***, or to competent ***public*** authorities for the prevention, investigation, detection and prosecution of criminal offences***, including for the prevention of money laundering and the fight against terrorist financing. A transfer of personal data should equally be regarded as lawful where it is necessary to protect an interest which is essential for the data subject's or another person's life, if the data subject is incapable of giving consent. Transferring personal data for such important grounds of public interest should only be used for occasional transfers. In each and every case, a careful assessment of all circumstances of the transfer should be carried out.***

Amendment 61

Proposal for a regulation
Recital 88

Text proposed by the Commission	*Amendment*
(88) ***Transfers which cannot be qualified as frequent or massive, could also be possible for the purposes of the legitimate interests pursued by the controller or the processor, when they have assessed all the***	For the purposes of processing for historical, statistical and scientific research purposes, the legitimate expectations of society for an increase of knowledge

circumstances surrounding the data transfer. For the purposes of processing for historical, statistical and scientific research purposes**,** the legitimate expectations of society for an increase of knowledge should be taken into consideration.	should be taken into consideration.

Amendment 62

Proposal for a regulation
Recital 89

Text proposed by the Commission	*Amendment*
(89) In any case, where the Commission has taken no decision on the adequate level of data protection in a third country, the controller or processor should make use of solutions that provide data subjects with a guarantee that they will continue to benefit from the fundamental rights and safeguards as regards processing of their data in the Union once this data has been transferred.	(89) In any case, where the Commission has taken no decision on the adequate level of data protection in a third country, the controller or processor should make use of solutions that provide data subjects with a ***legally binding*** guarantee that they will continue to benefit from the fundamental rights and safeguards as regards processing of their data in the Union once this data has been transferred***, to the extent that the processing is not massive, not repetitive and not structural***. ***That guarantee should include financial indemnification in cases of loss or unauthorised access or processing of the data and an obligation, regardless of national legislation, to provide full details of all access to the data by public authorities in the third country.***

Amendment 63

Proposal for a regulation
Recital 90

Text proposed by the Commission	*Amendment*
(90) Some third countries enact laws, regulations and other legislative instruments which purport to directly regulate data processing activities of natural and legal persons under the jurisdiction of the Member States. The extraterritorial application of these laws, regulations and other legislative	(90) Some third countries enact laws, regulations and other legislative instruments which purport to directly regulate data processing activities of natural and legal persons under the jurisdiction of the Member States. The extraterritorial application of these laws, regulations and other legislative

instruments may be in breach of international law and may impede the attainment of the protection of individuals guaranteed in the Union by this Regulation. . Transfers should only be allowed where the conditions of this Regulation for a transfer to third countries are met. This may inter alia be the case where the disclosure is necessary for an important ground of public interest recognised in Union law or in a Member State law to which the controller is subject. The conditions under which an important ground of public interest exists should be further specified by the Commission in a delegated act.	instruments may be in breach of international law and may impede the attainment of the protection of individuals guaranteed in the Union by this Regulation. Transfers should only be allowed where the conditions of this Regulation for a transfer to third countries are met. This may inter alia be the case where the disclosure is necessary for an important ground of public interest recognised in Union law or in a Member State law to which the controller is subject. The conditions under which an important ground of public interest exists should be further specified by the Commission in a delegated act. ***In cases where controllers or processors are confronted with conflicting compliance requirements between the jurisdiction of the Union on the one hand, and that of a third country on the other, the Commission should ensure that Union law takes precedence at all times. The Commission should provide guidance and assistance to the controller and processor, and it should seek to resolve the jurisdictional conflict with the third country in question***.

Amendment 64

Proposal for a regulation
Recital 92

Text proposed by the Commission	*Amendment*
(92) The establishment of supervisory authorities in Member States, exercising their functions with complete independence, is an essential component of the protection on individuals with regard to the processing of their personal data. Member States may establish more than one supervisory authority, to reflect their constitutional, organisational and administrative structure.	(92) The establishment of supervisory authorities in Member States, exercising their functions with complete independence, is an essential component of the protection on individuals with regard to the processing of their personal data. Member States may establish more than one supervisory authority, to reflect their constitutional, organisational and administrative structure. ***An authority shall have adequate financial and personal resources to fully carry out its role, taking into account the size of the population and the amount of personal data***

processing.

Amendment 65

Proposal for a regulation
Recital 94

Text proposed by the Commission	*Amendment*
(94) Each supervisory authority should be provided with the adequate financial and human resources, premises and infrastructure, which is necessary for the effective performance of their tasks, including for the tasks related to mutual assistance and cooperation with other supervisory authorities throughout the Union.	(94) Each supervisory authority should be provided with the adequate financial and human resources, ***paying particular attention to ensuring adequate technical and legal skills of staff,*** premises and infrastructure, which ***are*** necessary for the effective performance of their tasks, including for the tasks related to mutual assistance and co-operation with other supervisory authorities throughout the Union.

Amendment 66

Proposal for a regulation
Recital 95

Text proposed by the Commission	*Amendment*
(95) The general conditions for the members of the supervisory authority should be laid down by law in each Member State and should in particular provide that those members should be ***either*** appointed by the parliament or the government of the Member State, and include rules on the personal qualification of the members and the position of those members.	(95) The general conditions for the members of the supervisory authority should be laid down by law in each Member State and should in particular provide that those members should be appointed by the parliament or the government of the Member State ***taking due care to minimise the possibility of political interference,*** and include rules on the personal qualification of the members**,** ***the avoidance of conflicts of interest*** and the position of those members.

Amendment 67

Proposal for a regulation
Recital 97

Text proposed by the Commission	*Amendment*
(97) Where the processing of personal data in the context of the activities of an	(97) Where the processing of personal data in the context of the activities of an

establishment of a controller or a processor in the Union takes place in more than one Member State, one single supervisory authority should ***be competent for monitoring the activities of*** the controller or processor throughout the Union and taking the related decisions, in order to increase the consistent application, provide legal certainty and reduce administrative burden for such controllers and processors.	establishment of a controller or a processor in the Union takes place in more than one Member State, one single supervisory authority should ***act as the single contact point and the lead authority responsible for supervising*** the controller or processor throughout the Union and taking the related decisions, in order to increase the consistent application, provide legal certainty and reduce administrative burden for such controllers and processors.

Amendment 68

Proposal for a regulation
Recital 98

Text proposed by the Commission	*Amendment*
(98) The ***competent*** authority, providing such one-stop shop, should be the supervisory authority of the Member State in which the controller or processor has its main establishment.	(98) The ***lead*** authority, providing such one-stop shop, should be the supervisory authority of the Member State in which the controller or processor has its main establishment ***or its representative***. ***The European Data Protection Board may designate the lead authority through the consistency mechanism in certain cases on the request of a competent authority.***

Amendment 69

Proposal for a regulation
Recital 98 a (new)

Text proposed by the Commission	*Amendment*
	(98a) Data subjects whose personal data is processed by a data controller or processor in another Member State should be able to complain to the supervisory authority of their choice. The lead data protection authority should coordinate its work with that of the other authorities involved.

Amendment 70

Proposal for a regulation
Recital 101

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

Amendment 71

Proposal for a regulation
Recital 105

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

Commission may take in the exercise of its powers under the Treaties.	***consistency, if they deem a measure by a Data Protection Authority of a Member State has not fulfilled this criterion***. This mechanism should be without prejudice to any measures that the Commission may take in the exercise of its powers under the Treaties.

Amendment 72

Proposal for a regulation
Recital 106 a (new)

Text proposed by the Commission	*Amendment*
	(106a) In order to ensure the consistent application of this Regulation, the European Data Protection Board may in individual cases adopt a decision which is binding on the competent supervisory authorities.

Amendment 73

Proposal for a regulation
Recital 107

Text proposed by the Commission	*Amendment*
(107) In order to ensure compliance with this Regulation, the Commission may adopt an opinion on this matter, or a decision, requiring the supervisory authority to suspend its draft measure.	***deleted***

Amendment 74

Proposal for a regulation
Recital 110

Text proposed by the Commission	*Amendment*
(110) At Union level, a European Data Protection Board should be set up. It should replace the Working Party on the Protection of Individuals with Regard to the Processing of Personal Data established by Directive 95/46/EC. It should consist of a head of a supervisory authority of each Member State and of the European Data	(110) At Union level, a European Data Protection Board should be set up. It should replace the Working Party on the Protection of Individuals with Regard to the Processing of Personal Data established by Directive 95/46/EC. It should consist of a head of a supervisory authority of each Member State and of the European Data

Protection Supervisor. ***The Commission should participate in its activities.*** The European Data Protection Board should contribute to the consistent application of this Regulation throughout the Union, including by advising the ***Commission*** and promoting cooperation of the supervisory authorities throughout the Union. The European Data Protection Board should act independently when exercising its tasks.	Protection Supervisor. The European Data Protection Board should contribute to the consistent application of this Regulation throughout the Union, including by advising the ***institutions of the Union*** and promoting cooperation of the supervisory authorities throughout the Union***, including the coordination of joint operations***. The European Data Protection Board should act independently when exercising its tasks. ***The European Data Protection Board should strengthen the dialogue with concerned stakeholders such as data subjects' associations, consumer organisations, data controllers and other relevant stakeholders and experts.***

Amendment 75

Proposal for a regulation
Recital 111

Text proposed by the Commission	*Amendment*
(111) ***Every*** data subject should have the right to lodge a complaint with a supervisory authority in any Member State and have the right to ***a*** judicial remedy if they consider that their rights under this Regulation are infringed or where the supervisory authority does not react on a complaint or does not act where such action is necessary to protect the rights of the data subject.	(111) Data ***subjects*** should have the right to lodge a complaint with a supervisory authority in any Member State and have the right to ***an effective*** judicial remedy ***in accordance with Article 47 of the Charter of Fundamental Rights*** if they consider that their rights under this Regulation are infringed or where the supervisory authority does not react on a complaint or does not act where such action is necessary to protect the rights of the data subject.

Amendment 76

Proposal for a regulation
Recital 112

Text proposed by the Commission	*Amendment*
(112) Any body, organisation or association which ***aims to protects the rights and interests of data subjects in relation to the protection of their data*** and is constituted according to the law of a Member State should have the right to	(112) Any body, organisation or association which ***acts in the public interest*** and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority ***on behalf of data***

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

Amendment 77

Proposal for a regulation
Recital 114

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

Amendment 78

Proposal for a regulation
Recital 115

Text proposed by the Commission	*Amendment*
(115) In situations where the competent supervisory authority established in another Member State does not act or has taken insufficient measures in relation to a complaint, the data subject may request the supervisory authority in the Member State of his or her habitual residence to bring proceedings against that supervisory authority to the competent court in the other Member State. The requested supervisory authority may decide, subject to judicial review, whether it is appropriate to follow the request or not.	(115) In situations where the competent supervisory authority established in another Member State does not act or has taken insufficient measures in relation to a complaint, the data subject may request the supervisory authority in the Member State of his or her habitual residence to bring proceedings against that supervisory authority to the competent court in the other Member State. ***This does not apply to non-EU-residents.*** The requested supervisory authority may decide, subject to judicial review, whether it is appropriate

to follow the request or not.

Amendment 79

Proposal for a regulation
Recital 116

Text proposed by the Commission	*Amendment*
(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers.	(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or***, in case of EU residence,*** where the data subject resides, unless the controller is a public authority ***of the Union or a Member State*** acting in the exercise of its public powers.

Amendment 80

Proposal for a regulation
Recital 118

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

Amendment 81

Proposal for a regulation
Recital 119

Text proposed by the Commission	*Amendment*
(119) Penalties should be imposed to any person, whether governed by private or public law, who fails to comply with this Regulation. Member States should ensure that the penalties should be effective, proportionate and dissuasive and should	(119) Penalties should be imposed to any person, whether governed by private or public law, who fails to comply with this Regulation. Member States should ensure that the penalties should be effective, proportionate and dissuasive and should

take all measures to implement the penalties.	take all measures to implement the penalties. ***The rules on penalties should be subject to appropriate procedural safeguards in conformity with the general principles of Union law and the Charter of Fundamental Rights, including those concerning the right to an effective judicial remedy, due process and the principle of ne bis in idem.***

Amendment 82

Proposal for a regulation
Recital 119 a (new)

Text proposed by the Commission	*Amendment*
	(119a) In applying penalties, Member States should show full respect for appropriate procedural safeguards, including the right to an effective judicial remedy, due process, and the principle of ne bis in idem.

Amendment 83

Proposal for a regulation
Recital 121

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

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

Amendment 84

Proposal for a regulation
Recital 122 a (new)

Text proposed by the Commission	*Amendment*
	(122a) A professional who processes personal data concerning health should receive, if possible, anonymised or pseudonymised data, leaving the knowledge of the identity only to the General Practitioner or to the Specialist who has requested such data processing.

Amendment 85

Proposal for a regulation
Recital 123

Text proposed by the Commission	*Amendment*
(123) The processing of personal data concerning health may be necessary for reasons of public interest in the areas of public health, without consent of the data subject. In that context, 'public health' should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council ***of 16 December 2008 on Community statistics on public health and health and safety at work***, meaning all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality. ***Such processing of personal data concerning health for reasons of public interest should not result in personal data being processed for other purposes by third parties such as employers, insurance and banking companies.***	(123) The processing of personal data concerning health may be necessary for reasons of public interest in the areas of public health, without consent of the data subject. In that context, 'public health' should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council[44b], meaning all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality.
	[44b] Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

Amendment 86

Proposal for a regulation
Recital 123 a (new)

Text proposed by the Commission	*Amendment*
	(123a) The processing of personal data concerning health, as a special category

	of data, may be necessary for reasons of historical, statistical or scientific research. Therefore this Regulation foresees an exemption from the requirement of consent in cases of research that serves a high public interest.

Amendment 87

Proposal for a regulation
Recital 124

Text proposed by the Commission	*Amendment*
(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment context. ***Therefore, in order*** to regulate the processing of employees' personal data in the employment context, ***Member States should be able, within the limits of*** this Regulation***, to adopt by law specific rules for*** the processing of personal data in the employment ***sector***.	(124) The general principles on the protection of individuals with regard to the processing of personal data should also be applicable to the employment ***and the social security*** context. Member States ***should be able*** to regulate the processing of employees' personal data in the employment ***and the processing of personal data in the social security*** context, ***in accordance with the rules and minimum standards set out in*** this Regulation***. Where a statutory basis is provided in the Member State in question for the regulation of employment matters by agreement between employee representatives and the management of the undertaking or the controlling undertaking of a group of undertakings (collective agreement) or under Directive 2009/38/EC of the European Parliament and of the Council[44c],*** the processing of personal data in ***an*** employment ***context may also be regulated by such an agreement.***
	[44c] Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 122,

16.5.2009, p. 28).

Amendment 88

Proposal for a regulation
Recital 125 a (new)

Text proposed by the Commission	*Amendment*
	(125a) Personal data may also be processed subsequently by archive services whose main or mandatory task is to collect, conserve, provide information about, exploit and disseminate archives in the public interest. Member State legislation should reconcile the right to the protection of personal data with the rules on archives and on public access to administrative information. Member States should encourage the drafting, in particular by the European Archives Group, of rules to guarantee the confidentiality of data vis-à-vis third parties and the authenticity, integrity and proper conservation of data.

Amendment 89

Proposal for a regulation
Recital 126

Text proposed by the Commission	*Amendment*
(126) Scientific research for the purposes of this Regulation should include fundamental research, applied research, and privately funded research and in addition should take into account the Union's objective under Article 179(1) of the Treaty on the Functioning of the European Union of achieving a European Research Area.	(126) Scientific research for the purposes of this Regulation should include fundamental research, applied research, and privately funded research and in addition should take into account the Union's objective under Article 179(1) of the Treaty on the Functioning of the European Union of achieving a European Research Area. ***The processing of personal data for historical, statistical and scientific research purposes should not result in personal data being processed for other purposes, unless with the consent of the data subject or on the basis of Union or Member State law.***

Amendment 90

Proposal for a regulation
Recital 128

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

Amendment 91

Proposal for a regulation
Recital 129

Text proposed by the Commission	*Amendment*
(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In particular, delegated acts should be adopted in respect of ***lawfulness of processing***; specifying ***the criteria and conditions in relation to the consent of a child; processing of special categories of data; specifying the criteria and conditions for manifestly excessive***	(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. In particular, delegated acts should be adopted in respect of specifying ***conditions of icon-based mode for provision of information;*** the right to erasure; ***declaring that*** codes of conduct ***are in line with the Regulation***; criteria and requirements for certification mechanisms; ***the adequate***

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

level of protection afforded by a third country or an international organisation; criteria and requirements for transfers by way of binding corporate rules; administrative sanctions; processing for health purposes ***and*** processing in the employment context. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ***in particular with the European Data Protection Board***. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and ***to the*** Council.

Amendment 92

Proposal for a regulation
Recital 130

Text proposed by the Commission	*Amendment*
(130) In order to ensure uniform conditions	(130) In order to ensure uniform conditions

for the implementation of this Regulation, implementing powers should be conferred on the Commission for: specifying standard forms in relation to the processing of personal data of a child; standard ***procedures and*** forms for ***exercising the rights of*** data subjects; standard forms for the ***information*** to the data subject; standard forms ***and procedures*** in relation to the right of access***; the right to data portability;*** standard forms in relation to ***the responsibility of the controller to data protection by design and by default and to*** the documentation***; specific requirements for the security of*** processing; the standard ***format and the procedures*** for the notification of a personal data breach to the supervisory authority and ***the communication of a personal data breach to the data subject; standards and procedures for a data protection impact assessment;*** forms ***and procedures*** for prior ***authorisation and prior*** consultation***; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ***of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers***[45]**.** In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.

for the implementation of this Regulation, implementing powers should be conferred on the Commission for: specifying standard forms ***for specific methods to obtain verifiable consent*** in relation to the processing of personal data of a child; standard forms for ***the communication to the*** data subjects ***on the exercice of their*** rights; standard forms for the information to the data subject; standard forms in relation to the right of access ***including for communicating the personal data to the data subject***; standard forms in relation to the documentation ***to be kept by the controller and the processor***; the standard ***form*** for the notification of a personal data breach to the supervisory authority and ***for documenting a personal data breach***; forms for prior consultation ***and information to the supervisory authority***.. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[45] In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.

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[45] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member

[45] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member

States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.	States of the Commission's exercise of implementing powers ***(***OJ L 55, 28.2.2011, p. 13***)***.

Amendment 93

Proposal for a regulation
Recital 131

Text proposed by the Commission	*Amendment*
(131) The examination procedure should be used for the adoption of specifying standard forms ***in relation to the*** consent of a child; ***standard procedures and forms*** for ***exercising the*** rights ***of data subjects***; ***standard forms*** for the information to the data subject; ***standard forms and procedures*** in relation to the right of access ***the right to data portability; standard forms*** in relation to the ***responsibility of*** the controller ***to data protection by design and by default and to the documentation***; ***specific requirements for the security of processing***; ***the standard format and the procedures*** for the notification of a personal data breach to the supervisory authority and ***the communication of*** a personal data breach ***to the data subject***; ***standards and procedures for a data protection impact assessment; forms and procedures*** for prior ***authorisation and prior*** consultation***; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism***, given that those acts are of general scope.	(131) The examination procedure should be used for the adoption of specifying standard forms***: for specific methods to obtain verifiable*** consent ***in relation to the processing of personal data*** of a child; for ***the communication to the data subjects on the exercice of their*** rights; for the information to the data subject; in relation to the right of access ***including for communicating the personal data to the data subject***;in relation to the ***documentation to be kept by*** the controller ***and the processor***; for the notification of a personal data breach to the supervisory authority and ***for documenting*** a personal data breach; for prior consultation ***and information to the supervisory authority***, given that those acts are of general scope.

Amendment 94

Proposal for a regulation
Recital 132

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

Amendment 95

Proposal for a regulation
Recital 134

Text proposed by the Commission	*Amendment*
(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in force.	(134) Directive 95/46/EC should be repealed by this Regulation. However, Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC should remain in force. ***Commission decisions and authorisations by supervisory authorities relating to transfers of personal data to third countries pursuant to Article 41(8) should remain in force for a transition period of five years after the entry into force of this Regulation unless amended, replaced or repealed by the Commission before the end of this period.***

Amendment 96

Proposal for a regulation
Article 2

Text proposed by the Commission	*Amendment*
Material scope	Material scope
1. This Regulation applies to the	1. This Regulation applies to the

processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.	processing of personal data wholly or partly by automated means, ***irrespective of te method of processing,*** and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.
2. This Regulation does not apply to the processing of personal data:	2. This Regulation does not apply to the processing of personal data:
(a) in the course of an activity which falls outside the scope of Union law***, in particular concerning national security;***	(a) in the course of an activity which falls outside the scope of Union law;
(b) by the Union institutions, bodies, offices and agencies;	
(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 of the Treaty on European Union;	(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 ***of Title V*** of the Treaty on European Union;
(d) by a natural person ***without any gainful interest*** in the course of ***its own*** exclusively personal or household activity.	(d) by a natural person in the course of ***an*** exclusively personal or household activity. ***This exemption also shall apply to a publication of personal data where it can be reasonably expected that it will be only accessed by a limited number of persons;***
(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.	(e) by competent ***public*** authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.
3. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.	3. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.

Amendment 97

Proposal for a regulation
Article 3

Text proposed by the Commission	*Amendment*
Territorial scope	Territorial scope
1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a	1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a

controller or a processor in the Union.	controller or a processor in the Union***, whether the processing takes place in the Union or not***.
2. This Regulation applies to the processing of personal data of data subjects ***residing*** in the Union by a controller not established in the Union, where the processing activities are related to:	2. This Regulation applies to the processing of personal data of data subjects in the Union by a controller ***or processor*** not established in the Union, where the processing activities are related to:
(a) the offering of goods or services to such data subjects in the Union; or	(a) the offering of goods or services***, irrespective of whether a payment of the data subject is required,*** to such data subjects in the Union; or
(b) the monitoring of ***their behaviour***.	(b) the monitoring of ***such data subjects***.
3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.	3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

Amendment 98

Proposal for a regulation
Article 4

Text proposed by the Commission	*Amendment*
Definitions	Definitions
For the purposes of this Regulation:	For the purposes of this Regulation:
(1) ***'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;***	
(2) 'personal data' means any information relating to ***a*** data subject;	(2) 'personal data' means any information relating to ***an identified or identifiable natural person ('***data subject**')**; ***an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number,***

	location data, unique identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social or gender identity of that person;
	(2a) 'pseudonymous data' means personal data that cannot be attributed to a specific data subject without the use of additional information, as long as such additional information is kept separately and subject to technical and organisational measures to ensure non-attribution;
	(2b) 'encrypted data' means personal data, which through technological protection measures is rendered unintelligible to any person who is not authorised to access it;
(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;	(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;
	(3a) 'profiling' means any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person or to analyse or predict in particular that natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour;
(4) 'filing system' means any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis;	(4) 'filing system' means any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis;
(5) 'controller' means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes***, conditions*** and means of the processing of personal data; where the purposes***, conditions*** and	(5) 'controller' means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are

means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;
(6) 'processor' means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller;	(6) 'processor' means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller;
(7) 'recipient' means a natural or legal person, public authority, agency or any other body to which the personal data are disclosed;	(7) 'recipient' means a natural or legal person, public authority, agency or any other body to which the personal data are disclosed;
	(7a) 'third party' means any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;
(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;
(9) 'personal data breach' means ***a breach of security leading to*** the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) 'personal data breach' means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
(10) 'genetic data' means all data***, of whatever type, concerning*** the characteristics of an individual which ***are*** inherited or acquired ***during early prenatal development;***	(10) 'genetic data' means all ***personal*** data ***relating to*** the ***genetic*** characteristics of an individual which ***have been*** inherited or acquired ***as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, desoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained;***
(11) 'biometric data' means any data relating to the physical, physiological or behavioural characteristics of an individual	(11) 'biometric data' means any ***personal*** data relating to the physical, physiological or behavioural characteristics of an

which allow their unique identification, such as facial images, or dactyloscopic data;	individual which allow their unique identification, such as facial images, or dactyloscopic data;
(12) 'data concerning health' means any ***information*** which relates to the physical or mental health of an individual, or to the provision of health services to the individual;	(12) 'data concerning health' means any ***personal data*** which relates to the physical or mental health of an individual, or to the provision of health services to the individual;
(13) 'main establishment' means ***as regards the controller, the place of its establishment*** in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken***; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, 'main establishment' means the place of its central administration in the Union;***	(13) 'main establishment' means the ***place of establishment of the undertaking or group of undertakings*** in the Union***, whether controller or processor,*** where the main decisions as to the purposes, conditions and means of the processing of personal data are taken***. The following objective criteria may be considered among others: the location of the controller or processor's headquarters; the location of the entity within a group of undertakings which is best placed in terms of management functions and administrative responsibilities to deal with and enforce the rules as set out in this Regulation; the location where effective and real management activities are exercised determining the data processing through stable arrangements;***
(14) 'representative' means any natural or legal person established in the Union who, explicitly designated by the controller, ***acts and may be addressed by any supervisory authority and other bodies in the Union instead of*** the controller, with regard to the obligations of the controller under this Regulation;	(14) 'representative' means any natural or legal person established in the Union who, explicitly designated by the controller***, represents*** the controller, with regard to the obligations of the controller under this Regulation;
(15) 'enterprise' means any entity engaged in an economic activity, irrespective of its legal form, thus including, in particular, natural and legal persons, partnerships or associations regularly engaged in an economic activity;	(15) 'enterprise' means any entity engaged in an economic activity, irrespective of its legal form, thus including, in particular, natural and legal persons, partnerships or associations regularly engaged in an economic activity;
(16) 'group of undertakings' means a controlling undertaking and its controlled undertakings;	(16) 'group of undertakings' means a controlling undertaking and its controlled undertakings;
(17) 'binding corporate rules' means personal data protection policies which are adhered to by a controller or processor	(17) 'binding corporate rules' means personal data protection policies which are adhered to by a controller or processor

established on the territory of a Member State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings;	established on the territory of a Member State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings;
(18) 'child' means any person below the age of 18 years;	(18) 'child' means any person below the age of 18 years;
(19) 'supervisory authority' means a public authority which is established by a Member State in accordance with Article 46.	(19) 'supervisory authority' means a public authority which is established by a Member State in accordance with Article 46.

Amendment 99

Proposal for a regulation
Article 5

Text proposed by the Commission	*Amendment*
Principles relating to personal data processing	Principles relating to personal data processing
1. Personal data ***must*** be:	1. Personal data ***shall*** be:
(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;	(a) processed lawfully, fairly and in a transparent manner in relation to the data subject ***(lawfulness, fairness and transparency)***;
(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;	(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes ***(purpose limitation)***;
(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;	(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data ***(data minimisation)***;
(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;	(d) accurate and***, where necessary,*** kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ***(accuracy).***
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for	(e) kept in a form which permits ***direct or indirect*** identification of data subjects for no longer than is necessary for the

which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research ***or for archive*** purposes in accordance with the rules and conditions of Articles 83 ***and 83a*** and if a periodic review is carried out to assess the necessity to continue the storage, ***and if appropriate technical and organizational measures are put in place to limit access to the data only for these purposes (storage minimisation)***; ***(ea) processed in a way that effectively allows the data subject to exercise his or her rights (effectiveness);*** ***(eb) processed in a way that protects against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (integrity);***
(f) processed under the responsibility and liability of the controller, who shall ensure and demonstrate ***for each processing operation*** the compliance with the provisions of this Regulation.	(f) processed under the responsibility and liability of the controller, who shall ensure and ***be able to*** demonstrate the compliance with the provisions of this Regulation ***(accountability)***.

Amendment 100

Proposal for a regulation
Article 6

Text proposed by the Commission	*Amendment*
Lawfulness of processing	Lawfulness of processing
1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:	1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:
(a) the data subject has given consent to the processing of their personal data for one or more specific purposes;	(a) the data subject has given consent to the processing of their personal data for one or more specific purposes;
(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to	(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to

entering into a contract;	entering into a contract;
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation to which the controller is subject;
(d) processing is necessary in order to protect the vital interests of the data subject;	(d) processing is necessary in order to protect the vital interests of the data subject;
(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;	(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
(f) processing is necessary for the purposes of the legitimate interests pursued by ***a*** controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data***, in particular where the data subject is a child***. This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by ***the*** controller ***or***, ***in case of disclosure, by the third party to whom the data is disclosed, and which meet the reasonable expectations of the data subject based on his or her relationship with the controller***, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. This shall not apply to processing carried out by public authorities in the performance of their tasks.
2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.	2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.
3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:	3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:
(a) Union law, or	(a) Union law, or
(b) the law of the Member State to which the controller is subject.	(b) the law of the Member State to which the controller is subject.
The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.	The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued. ***Within the limits of this Regulation, the law of the Member State may provide details of the lawfulness of processing, particularly as regards data***

	controllers, the purpose of processing and purpose limitation, the nature of the data and the data subjects, processing measures and procedures, recipients, and the duration of storage.
4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.	

Amendment 101

Proposal for a regulation
Article 7

Text proposed by the Commission	*Amendment*
Conditions for consent	Conditions for consent
1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data for specified purposes.	1. ***Where processing is based on consent,*** the controller shall bear the burden of proof for the data subject's consent to the processing of their personal data for specified purposes.
2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.	2. If the data subject's consent is given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented ***clearly*** distinguishable in its appearance from this other matter. ***Provisions on the data subject's consent which are partly in violation of this Regulation are fully void.***
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect	3. ***Notwithstanding other legal grounds for processing,*** the data subject shall have the right to withdraw his or her consent at

the lawfulness of processing based on consent before its withdrawal.	any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. ***It shall be as easy to withdraw consent as to give it. The data subject shall be informed by the controller if withdrawal of consent may result in the termination of the services provided or of the relationship with the controller.***
4. Consent shall ***not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.***	4. Consent shall ***be purpose-limited and shall lose its validity when the purpose ceases to exist or as soon as the processing of personal data is no longer necessary for carrying out the purpose for which they were originally collected. The execution of a contract or the provision of a service shall not be made conditional on the consent to the processing of data that is not necessary for the execution of the contract or the provision of the service pursuant to Article 6(1), point (b).***

Amendment 102

Proposal for a regulation
Article 8

Text proposed by the Commission	*Amendment*
Processing of personal data of a child	Processing of personal data of a child
1. For the purposes of this Regulation, in relation to the offering of ***information society*** services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or ***custodian***. The controller shall make reasonable efforts to ***obtain verifiable*** consent, taking into consideration available technology.	1. For the purposes of this Regulation, in relation to the offering of ***goods or*** services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or ***legal guardian***. The controller shall make reasonable efforts to ***verify such*** consent, taking into consideration available technology ***without causing otherwise unnecessary processing of personal data***.
	1a. Information provided to children, parents and legal guardians in order to express consent, including about the controller's collection and use of personal data, should be given in a clear language appropriate to the intended audience.

2. Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.	2. Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.
3. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of ***further specifying the criteria and requirements*** for the methods ***to obtain verifiable*** consent referred to in paragraph 1. ***In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.***	3. The ***European Data Protection Board*** shall be ***entrusted with the task*** of ***issuing guidelines, recommendations and best practices*** for the methods ***of verifying*** consent referred to in paragraph 1***, in accordance with Article 66.***
4. The Commission may lay down standard forms for specific methods to obtain verifiable consent referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	

Amendment 103

Proposal for a regulation
Article 9

Text proposed by the Commission	*Amendment*
Processing of special categories of ***personal*** data	Special categories of data
1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life ***or*** criminal convictions or related security measures shall be prohibited.	1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or ***philosophical*** beliefs, ***sexual orientation or gender identity,*** trade-union membership ***and activities***, and the processing of genetic ***or biometric*** data or data concerning health or sex life***, administrative sanctions, judgments,*** criminal ***or suspected offences,*** convictions or related security measures shall be prohibited.
2. Paragraph 1 shall not apply ***where***:	2. Paragraph 1 shall not apply ***if one of the following applies***:
(a) the data subject has given consent to the processing of those personal data, subject to the conditions laid down in Articles 7 and 8, except where Union law or Member State law provide that the prohibition	(a) the data subject has given consent to the processing of those personal data ***for one or more specified purposes***, subject to the conditions laid down in Articles 7 and 8, except where Union law or Member State

referred to in paragraph 1 may not be lifted by the data subject; or	law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject, or
	(aa) processing is necessary for the performance or execution of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law providing for adequate safeguards; or	(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law ***or collective agreements*** providing for adequate safeguards ***for the fundamental rights and the interests of the data subject such as right to non-discrimination, subject to the conditions and safeguards referred to in Article 82***; or
(c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or	(c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or
(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or	(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or
(e) the processing relates to personal data which are manifestly made public by the data subject; or	(e) the processing relates to personal data which are manifestly made public by the data subject; or
(f) processing is necessary for the establishment, exercise or defence of legal claims; or	(f) processing is necessary for the establishment, exercise or defence of legal claims; or
(g) processing is necessary for the performance of a task carried out ***in the*** public interest, on the basis of Union law, or Member State law which shall provide	(g) processing is necessary for the performance of a task carried out ***for reasons of high*** public interest, on the basis of Union law, or Member State law

for suitable measures to safeguard the ***data subject's legitimate*** interests; or	which shall ***be proportionate to the aim pursued, respect the essence of the right to data protection and*** provide for suitable measures to safeguard the ***fundamental rights and the*** interests ***of the data subject***; or
(h) processing of data concerning health is necessary for health purposes and subject to the conditions and safeguards referred to in Article 81; or	(h) processing of data concerning health is necessary for health purposes and subject to the conditions and safeguards referred to in Article 81; or
(i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83; or	(i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83; or
	(ia) processing is necessary for archive services subject to the conditions and safeguards referred to in Article 83a; or
(j) processing of data relating to criminal convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. ***A complete*** register of criminal convictions shall be kept only under the control of official authority.	(j) processing of data relating to ***administrative sanctions, judgments,*** criminal ***offences,*** convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards ***for the fundamental rights and the interests of the data subject***. ***Any*** register of criminal convictions shall be kept only under the control of official authority.
3. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of ***further specifying the criteria, conditions and appropriate safeguards*** for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2.	3. The ***European Data Protection Board*** shall be ***entrusted with the task*** of ***issuing guidelines, recommendations and best practices*** for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2***, in accordance with Article 66***.

Amendment 104

Proposal for a regulation
Article 10

Text proposed by the Commission	*Amendment*
If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not ***be obliged to*** acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.	***1.*** If the data processed by a controller do not permit the controller ***or processor*** to ***directly or indirectly*** identify a natural person, ***or consist only of pseudonymous data,*** the controller shall not ***process or*** acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. ***2. Where the data controller is unable to comply with a provision of this Regulation because of paragraph 1, the controller shall not be obliged to comply with that particular provision of this Regulation. Where as a consequence the data controller is unable to comply with a request of the data subject, it shall inform the data subject accordingly.***

Amendment 105

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission	*Amendment*
	Article 10a ***General principles for data subject rights*** ***1. The basis of data protection is clear and unambiguous rights for the data subject which shall be respected by the data controller. The provisions of this Regulation aim to strengthen, clarify, guarantee and where appropriate, codify these rights.*** ***2. Such rights include, inter alia, the provision of clear and easily understandable information regarding the processing of his or her personal data, the right of access, rectification and erasure of their data, the right to obtain data, the***

	right to object to profiling, the right to lodge a complaint with the competent data protection authority and to bring legal proceedings as well as the right to compensation and damages resulting from an unlawful processing operation. Such rights shall in general be exercised free of charge. The data controller shall respond to requests from the data subject within a reasonable period of time.

Amendment 106

Proposal for a regulation
Article 11

Text proposed by the Commission	*Amendment*
1. The controller shall have transparent and easily accessible policies with regard to the processing of personal data and for the exercise of data subjects' rights.	1. The controller shall have ***concise,*** transparent***, clear*** and easily accessible policies with regard to the processing of personal data and for the exercise of data subjects' rights.
2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, ***adapted to the data subject***, in particular for any information addressed specifically to a child.	2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, in particular for any information addressed specifically to a child.

Amendment 107

Proposal for a regulation
Article 12

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

means, the controller shall also provide means for requests to be made electronically.	
2. The controller shall inform the data subject without delay and, at the latest within ***one month*** of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The controller shall inform the data subject without ***undue*** delay and, at the latest within ***40 calendar days*** of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing ***and, where possible, the controller may provide remote access to a secure system which would provide the data subject with direct access to their personal data***. Where the data subject makes the request in electronic form, the information shall be provided in electronic form ***where possible***, unless otherwise requested by the data subject.
3. If the controller ***refuses to*** take action on the request of the data subject, the controller shall inform the data subject of the reasons for the ***refusal*** and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.	3. If the controller ***does not*** take action on the request of the data subject, the controller shall inform the data subject of the reasons for the ***inaction*** and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee for providing the information or taking the action requested***, or the controller may not take the action requested***. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a ***reasonable*** fee ***taking into account the administrative costs*** for providing the information or taking the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for	

the manifestly excessive requests and the fees referred to in paragraph 4.

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

Amendment 108

Proposal for a regulation
Article 13

Text proposed by the Commission	*Amendment*
Rights in relation to recipients	***Notification requirement in the event of rectification and erasure***
The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been ***disclosed***, unless this proves impossible or involves a disproportionate effort.	The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been ***transferred***, unless this proves impossible or involves a disproportionate effort***. The controller shall inform the data subject about those recipients if the data subject requests this.***

Amendment 109

Proposal for a regulation
Article 13 a (new)

Text proposed by the Commission	*Amendment*
	Article 13a
	Standardised information policies
	1. Where personal data relating to a data subject are collected, the controller shall provide the data subject with the following particulars before providing information pursuant to Article 14:

(a) whether personal data are collected beyond the minimum necessary for each specific purpose of the processing;

(b) whether personal data are retained beyond the minimum necessary for each specific purpose of the processing;

(c) whether personal data are processed for purposes other than the purposes for which they were collected;

(d) whether personal data are disseminated to commercial third parties;

(e) whether personal data are sold or rented out;

(f) whether personal data are retained in encrypted form.

2. The particulars referred to in paragraph 1 shall be presented pursuant to the Annex to this Regulation in an aligned tabular format, using text and symbols, in the following three columns:

(a) the first column depicts graphical forms symbolising those particulars;

(b) the second column contains essential information describing those particulars;

(c) the third column depicts graphical forms indicating whether a specific particular is met.

3. The information referred to in paragraphs 1 and 2 shall be presented in an easily visible and clearly legible way and shall appear in a language easily understood by the consumers of the Member States to whom the information is provided. Where the particulars are presented electronically, they shall be machine readable.

4. Additional particulars shall not be provided. Detailed explanations or further remarks regarding the particulars referred to in paragraph 1 may be provided together with the other information requirements pursuant to Article 14.

5. The Commission shall be empowered to adopt, after requesting an opinion of the

	European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of further specifying the particulars referred to in paragraph 1 and their presentation as referred to in paragraph 2 and in the Annex to this Regulation.

Amendment 110

Proposal for a regulation
Article 14

Text proposed by the Commission	*Amendment*
Information to the data subject	Information to the data subject
1. Where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following information:	1. Where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following information, ***after the particulars pursuant to Article 13a have been provided***:
(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer;	(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer**;**
(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and ***the legitimate interests pursued by the controller where the processing is based on*** point (f) of Article 6(1);	(b) the purposes of the processing for which the personal data are intended, ***as well as information regarding the security of the processing of personal data***, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and***, where applicable, information on how they implement and meet the requirements of*** point (f)of Article 6(1);
(c) the period for which the personal data will be stored;	(c) the period for which the personal data will be stored***, or if this is not possible, the criteria used to determine this period***;
(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject ***or*** to object to the processing of such personal data;	(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject**,** to object to the processing of such personal data***, or to obtain data***;
(e) the right to lodge a complaint to the supervisory authority and the contact	(e) the right to lodge a complaint to the supervisory authority and the contact

details of the supervisory authority;	details of the supervisory authority;
(f) the recipients or categories of recipients of the personal data;	(f) the recipients or categories of recipients of the personal data;
(g) where applicable, that the controller intends to transfer to a third country or international organisation and ***on the level of protection afforded by that third country or international organisation by reference to*** an adequacy decision by the Commission;	(g) where applicable, that the controller's intends to transfer ***the data*** to a third country or international organisation and ***the existence or absence of*** an adequacy decision by the Commission***, or in case of transfers referred to in Article 42, Article 43, or point (h) of Article 44(1), reference to the appropriate safeguards and the means to obtain a copy of them***;
	(ga) where applicable, information about the existence of profiling, of measures based on profiling, and the envisaged effects of profiling on the data subject;
	(gb) meaningful information about the logic involved in any automated processing;
(h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.	(h) any further information ***which is*** necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected ***or processed, in particular the existence of certain processing activities and operations for which a personal data impact assessment has indicated that there may be a high risk;***
	(ha) where applicable, information whether personal data was provided to public authorities during the last consecutive 12-month period.
2. Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is ***obligatory*** or ***voluntary***, as well as the possible consequences of failure to provide such data.	2. Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is ***mandatory*** or ***optional***, as well as the possible consequences of failure to provide such data.
	2a. In deciding on further information which is necessary to make the processing fair under point (h) of paragraph 1, controllers shall have regard to any relevant guidance under Article 38.

3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.	3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the ***specific*** personal data originate. ***If personal data originate from publicly available sources, a general indication may be given.***
4. The controller shall provide the information referred to in paragraphs 1, 2 and 3:	4. The controller shall provide the information referred to in paragraphs 1, 2 and 3:
(a) at the time when the personal data are obtained from the data subject; or	(a) at the time when the personal data are obtained from the data subject ***or without undue delay where the above is not feasible***; or
	(aa) on request by a body, organization or association referred to in Article 73;
(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a ***disclosure*** to another recipient is envisaged, and at the latest ***when the data are first disclosed***.	(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a ***transfer*** to another recipient is envisaged, and at the latest ***at the time of the first transfer, or, if the data are to be used for communication with the data subject concerned, at the latest at the time of the first communication to that data subject; or***
	(ba) only on request where the data are processed by a small or micro enterprise which processes personal data only as an ancillary activity.
5. Paragraphs 1 to 4 shall not apply, where:	5. Paragraphs 1 to 4 shall not apply, where:
(a) the data subject has already the information referred to in paragraphs 1, 2 and 3; or	(a) the data subject has already the information referred to in paragraphs 1, 2 and 3; or
(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or	(b) the data ***are processed for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Articles 81 and 83,*** are not collected from the data subject and the provision of such information proves impossible or would involve a

	disproportionate effort ***and the controller has published the information for anyone to retrieve***; or
(c) the data are not collected from the data subject and recording or disclosure is expressly laid down by law; or	(c) the data are not collected from the data subject and recording or disclosure is expressly laid down by law ***to which the controller is subject, which provides appropriate measures to protect the data subject's legitimate interests, considering the risks represented by the processing and the nature of the personal data***; or
(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of ***others***, as defined in Union law or Member State law in accordance with Article 21.	(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of ***other natural persons***, as defined in Union law or Member State law in accordance with Article 21***;***
	(da) the data are processed in the exercise of his profession by, or are entrusted or become known to, a person who is subject to an obligation of professional secrecy regulated by Union or Member State law or to a statutory obligation of secrecy, unless the data is collected directly from the data subject.
6. In the case referred to in point (b) of paragraph 5, the controller shall provide appropriate measures to protect the data subject's legitimate interests.	6. In the case referred to in point (b) of paragraph 5, the controller shall provide appropriate measures to protect the data subject's ***rights or*** legitimate interests.
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.	
8. The Commission may lay down	

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

Amendment 111

Proposal for a regulation
Article 15

Text proposed by the Commission	*Amendment*
Right ***of*** access for the data subject	Right ***to*** access ***and to obtain data*** for the data subject
1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:	1. ***Subject to Article 12(4),*** the data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed***, and in clear and plain language,*** the following information:
(a) the purposes of the processing;	(a) the purposes of the processing ***for each category of personal data;***
(b) the categories of personal data concerned;	(b) the categories of personal data concerned;
(c) the recipients ***or categories of recipients*** to whom the personal data are to be or have been disclosed, ***in particular*** to recipients in third countries;	(c) the recipients to whom the personal data are to be or have been disclosed, ***including*** to recipients in third countries;
(d) the period for which the personal data will be stored;	(d) the period for which the personal data will be stored***, or if this is not possible, the criteria used to determine this period***;
(e) the existence of the right to request from the controller rectification or erasure of personal data concerning the data subject or to object to the processing of such personal data;	(e) the existence of the right to request from the controller rectification or erasure of personal data concerning the data subject or to object to the processing of such personal data;
(f) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;	(f) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;
(g) communication of the personal data	

undergoing processing and of any available information as to their source;	
(h) the significance and envisaged consequences of such processing***, at least in the case of measures referred to in Article 20***.	(h) the significance and envisaged consequences of such processing.
	(ha) meaningful information about the logic involved in any automated processing;
	(hb) without prejudice to Article 21, in the event of disclosure of personal data to a public authority as a result of a public authority request, confirmation of the fact that such a request has been made.
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic ***form***, unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in ***an*** electronic ***and structured format***, unless otherwise requested by the data subject. ***Without prejudice to Article 10, the controller shall take all reasonable steps to verify that the person requesting access to the data is the data subject.***
	2a. Where the data subject has provided the personal data where the personal data are processed by electronic means, the data subject shall have the right to obtain from the controller a copy of the provided personal data in an electronic and interoperable format which is commonly used and allows for further use by the data subject without hindrance from the controller from whom the personal data are withdrawn. Where technically feasible and available, the data shall be transferred directly from controller to controller at the request of the data subject.
	2b. This Article shall be without prejudice to the obligation to delete data when no longer necessary under point (e) of Article 5(1).
	2c. There shall be no right of access in accordance with paragraphs 1 and 2 when data within the meaning of point

	(da) of Article 14(5) are concerned, except if the data subject is empowered to lift the secrecy in question and acts accordingly.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.	
4. The Commission may specify standard forms and procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	

Amendment 112

Proposal for a regulation
Article 17

Text proposed by the Commission	*Amendment*
Right to ***be forgotten and to*** erasure	Right to erasure
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, ***especially in relation to personal data which are made available by the data subject while he or she was a child,*** where one of the following grounds applies:	1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, ***and to obtain from third parties the erasure of any links to, or copy or replication of, that data*** where one of the following grounds applies:
(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;	(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed
(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired,	(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired,

and where there is no other legal ground for the processing of the data;	and where there is no other legal ground for the processing of the data;
(c) the data subject objects to the processing of personal data pursuant to Article 19;	(c) the data subject objects to the processing of personal data pursuant to Article 19;
	(ca) a court or regulatory authority based in the Union has ruled as final and absolute that the data concerned must be erased;
(d) the ***processing of the*** data ***does not comply with this Regulation for other reasons***.	(d) the data ***has been unlawfully processed***.
	1a. The application of paragraph 1 shall be dependent upon the ability of the controller to verify that the person requesting the erasure is the data subject.
2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps***, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.***	2. Where the controller referred to in paragraph 1 has made the personal data public ***without a justification based on Article 6(1)***, it shall take all reasonable steps ***to have the data erased, including by third parties, without prejudice to Article 77. The controller shall inform the data subject, where possible, of the action taken by the relevant third parties.***
3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:	3. The controller ***and, where applicable, the third party*** shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:
(a) for exercising the right of freedom of expression in accordance with Article 80;	(a) for exercising the right of freedom of expression in accordance with Article 80;
(b) for reasons of public interest in the area of public health in accordance with Article 81;	(b) for reasons of public interest in the area of public health in accordance with Article 81;
(c) for historical, statistical and scientific research purposes in accordance with Article 83;	(c) for historical, statistical and scientific research purposes in accordance with Article 83;
(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller	(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller

is subject; Member State laws shall meet an objective of public interest, respect ***the essence of*** the right to the protection of personal data and be proportionate to the legitimate aim pursued;	is subject; Member State laws shall meet an objective of public interest, respect the right to the protection of personal data and be proportionate to the legitimate aim pursued;
(e) in the cases referred to in paragraph 4.	(e) in the cases referred to in paragraph 4.
4. Instead of erasure, the controller shall restrict processing of personal data where:	4. Instead of erasure, the controller shall restrict processing of personal data ***in such a way that it is not subject to the normal data access and processing operations and can not be changed anymore,*** where:
(a) their accuracy is contested by the data subject, for a period enabling the controller to verify the accuracy of the data;	(a) their accuracy is contested by the data subject, for a period enabling the controller to verify the accuracy of the data;
(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof;	(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof;
(c) the processing is unlawful and the data subject opposes their erasure and requests the restriction of their use instead;	(c) the processing is unlawful and the data subject opposes their erasure and requests the restriction of their use instead;
	(ca) a court or regulatory authority based in the Union has ruled as final and absolute that the data concerned must be restricted;
(d) the data subject requests to transmit the personal data into another automated processing system in accordance with Article ***18(2)***.	(d) the data subject requests to transmit the personal data into another automated processing system in accordance with ***paragraphs 2a of*** Article ***15;***
	(da) the particular type of storage technology does not allow for erasure and has been installed before the entry into force of this Regulation.
5. Personal data referred to in paragraph 4 may, with the exception of storage, only be processed for purposes of proof, or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.	5. Personal data referred to in paragraph 4 may, with the exception of storage, only be processed for purposes of proof, or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.
6. Where processing of personal data is restricted pursuant to paragraph 4, the controller shall inform the data subject before lifting the restriction on processing.	6. Where processing of personal data is restricted pursuant to paragraph 4, the controller shall inform the data subject before lifting the restriction on processing.
7. The controller shall implement	

mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.	
8. Where the erasure is carried out, the controller shall not otherwise process such personal data.	8. Where the erasure is carried out, the controller shall not otherwise process such personal data.
	8a. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying:	9. The Commission shall be empowered to adopt***, after requesting an opinion of the European Data Protection Board,*** delegated acts in accordance with Article 86 for the purpose of further specifying:
(a) the criteria and requirements for the application of paragraph 1 for specific sectors and in specific data processing situations;	(a) the criteria and requirements for the application of paragraph 1 for specific sectors and in specific data processing situations;
(b) the conditions for deleting links, copies or replications of personal data from publicly available communication services as referred to in paragraph 2;	(b) the conditions for deleting links, copies or replications of personal data from publicly available communication services as referred to in paragraph 2;
(c) the criteria and conditions for restricting the processing of personal data referred to in paragraph 4.	(c) the criteria and conditions for restricting the processing of personal data referred to in paragraph 4.

Amendment 113

Proposal for a regulation
Article 18

Text proposed by the Commission	*Amendment*
Right to Data Portability	***deleted***
1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and	

allows for further use by the data subject.

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

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

Amendment 114

Proposal for a regulation
Article 19

Text proposed by the Commission	*Amendment*
Right to object	Right to object
1. The data subject shall have the right to object***, on grounds relating to their particular situation,*** at any time to the processing of personal data which is based on points (d)***,*** (e) ***and (f)*** of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.	1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d) ***and*** (e) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.
2. Where personal data ***are processed for direct marketing purposes***, the data subject shall have the right to object free of charge to the processing of their personal data ***for such marketing***. ***This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.***	2. Where ***the processing of*** personal data ***is based on point (f) of Article 6(1)***, the data subject shall have ***at any time and without any further justification,*** the right to object free of charge ***in general or for any particular purpose*** to the processing of their personal data.

	2a. The right referred to in paragraph 2 shall be explicitly offered to the data subject in an intelligible manner and form, using clear and plain language, in particular if addressed specifically to a child, and shall be clearly distinguishable from other information.
	2b. In the context of the use of information society services, and notwithstanding Directive 2002/58/EC, the right to object may be exercised by automated means using a technical standard which allows the data subject to clearly express his or her wishes.
3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall no longer use or otherwise process the personal data concerned.	3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall no longer use or otherwise process the personal data concerned ***for the purposes determined in the objection***.

(The last sentence of paragraph 2 in the Commission text has become paragraph 2a in Parliament's amendment).

Amendment 115

Proposal for a regulation
Article 20

Text proposed by the Commission	*Amendment*
Measures based on profiling	Profiling
1. Every natural person shall have the right ***not to be subject*** to ***a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.***	1. ***Without prejudice to the provisions in Article 6*** every natural person shall have the right ***to object*** to ***profiling in accordance with Article 19. The data subject shall be informed about the right to object to profiling in a highly visible manner.***
2. Subject to the other provisions of this Regulation, a person may be subjected to ***a measure of the kind referred to in paragraph 1*** only if the processing:	2. Subject to the other provisions of this Regulation, a person may be subjected to ***profiling which leads to measures producing legal effects concerning the data subject or does similarly significantly affect the interests, rights or freedoms of***

	the concerned data subject only if the processing:
(a) is ***carried out in the course of*** the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied ***or where*** suitable measures to safeguard the data subject's legitimate interests have been adduced***, such as the right to obtain human intervention***; or	*(a)* is ***necessary for*** the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied***, provided that*** suitable measures to safeguard the data subject's legitimate interests have been adduced*;* or
(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or	(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests;
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.
3. ***Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person*** shall not be based solely on the special categories of personal data referred to in Article 9.	3. ***Profiling that has the effect of discriminating against individuals on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity, or that results in measures which have such effect, shall be prohibited. The controller shall implement effective protection against possible discrimination resulting from profiling. Profiling*** shall not be based solely on the special categories of personal data referred to in Article 9.
4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.	
5. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for*** suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.	5. ***Profiling which leads to measures producing legal effects concerning the data subject or does similarly significantly affect the interests, rights or freedoms of the concerned data subject shall not be based solely or predominantly on automated processing and shall include human assessment, including an***

	explanation of the decision reached after such an assessment. The suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2 ***shall include the right to obtain human assessment and an explanation of the decision reached after such assessment***.
	5a. The European Data Protection Board shall be entrusted with the task of issuing guidelines, recommendations and best practices in accordance with point (b) of Article 66 (1) for further specifying the criteria and conditions for profiling pursuant to paragraph 2.

Amendment 116

Proposal for a regulation
Article 21

Text proposed by the Commission	*Amendment*
Restrictions	Restrictions
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights ***provided for*** in ***points (a) to (e) of Article 5 and*** Articles 11 to ***20*** and Article 32, when such a restriction ***constitutes*** a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights in ***Articles*** 11 to ***19*** and Article 32, when such a restriction ***meets a clearly defined objective of public interest, respects the essence of the right to protection of personal data, is proportionate to the legitimate aim pursued and respects the fundamental rights and interests of the data subject and is*** a necessary and proportionate measure in a democratic society to safeguard:
(a) public security;	(a) public security;
(b) the prevention, investigation, detection and prosecution of criminal offences;	(b) the prevention, investigation, detection and prosecution of criminal offences;
(c) ***other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and*** taxation matters ***and the protection of market stability and integrity***;	(c) taxation matters;

(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;	(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
(e) a monitoring, inspection or regulatory function ***connected, even occasionally, with*** the exercise of ***official*** authority in cases referred to in (a), (b), (c) and (d);	(e) a monitoring, inspection or regulatory function ***in the framework of*** the exercise of ***a competent public*** authority in cases referred to in (a), (b), (c) and (d);
(f) the protection of the data subject or the rights and freedoms of others.	(f) the protection of the data subject or the rights and freedoms of others.
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to ***the objectives to be pursued by the processing and the determination of the controller.***	2. In particular, any legislative measure referred to in paragraph 1 ***must be necessary and proportionate in a democratic society and*** shall contain specific provisions at least as to***:***
	(a) the objectives to be pursued by the processing;
	(b) the determination of the controller;
	(c) the specific purposes and means of processing;
	(d) the safeguards to prevent abuse or unlawful access or transfer;
	(e) the right of data subjects to be informed about the restriction.
	2a. Legislative measures referred to in paragraph 1 shall neither permit nor oblige private controllers to retain data additional to those strictly necessary for the original purpose.

(The last words of paragraph 2 in the Commission text have become point (a) and (b) in Parliament's amendment).

Amendment 117

Proposal for a regulation
Article 22

Text proposed by the Commission	*Amendment*
Responsibility of the controller	Responsibility ***and accountability*** of the controller
1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.	1. The controller shall adopt ***appropriate*** policies and implement appropriate ***and demonstrable technical and organisational*** measures to ensure and be able to demonstrate ***in a transparent***

	manner that the processing of personal data is performed in compliance with this Regulation, ***having regard to the state of the art, the nature of personal data processing, the context, scope and purposes of the processing, the risks for the rights and freedoms of the data subjects and the type of the organization, both at the time of the determination of the means for processing and at the time of the processing itself***.
	1a. Having regard to the state of the art and the cost of implementation, the controller shall take all reasonable steps to implement compliance policies and procedures that persistently respect the autonomous choices of data subjects. These compliance policies shall be reviewed at least every two years and updated where necessary.
2. The measures provided for in paragraph 1 shall in particular include:	
(a) keeping the documentation pursuant to Article 28;	
(b) implementing the data security requirements laid down in Article 30;	
(c) performing a data protection impact assessment pursuant to Article 33;	
(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);	
(e) designating a data protection officer pursuant to Article 35(1).	
3. The controller shall ***implement mechanisms to ensure the verification of the*** effectiveness of the measures referred to in paragraphs 1 and 2. ***If proportionate, this verification shall be carried out by independent internal or external auditors.***	3. The controller shall ***be able to demonstrate the adequacy and*** effectiveness of the measures referred to in paragraphs 1 and 2. ***Any regular general reports of the activities of the controller, such as the obligatory reports by publicly traded companies, shall contain a summary description of the policies and measures referred to in paragraph 1***.
	3a. The controller shall have the right to transmit personal data inside the Union within the group of undertakings the

controller is part of, where such processing is necessary for legitimate internal administrative purposes between connected business areas of the group of undertakings and an adequate level of data protection as well as the interests of the data subjects are safeguarded by internal data protection provisions or equivalent codes of conduct as referred to in Article 38.

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

Amendment 118

Proposal for a regulation
Article 23

Text proposed by the Commission	*Amendment*
Data protection by design and by default	Data protection by design and by default
1. Having regard to the state of the art ***and the cost of implementation***, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the state of the art, ***current technical knowledge, international best practices and the risks represented by the data processing,*** the controller ***and the processor, if any,*** shall, both at the time of the determination of the ***purposes and*** means for processing and at the time of the processing itself, implement appropriate ***and proportionate*** technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject***, in particular with regard to the principles laid out in Article 5. Data protection by design shall have particular regard to the***

	entire lifecycle management of personal data from collection to processing to deletion, systematically focusing on comprehensive procedural safeguards regarding the accuracy, confidentiality, integrity, physical security and deletion of personal data. Where the controller has carried out a data protection impact assessment pursuant to Article 33, the results shall be taken into account when developing those measures and procedures.
	1a. In order to foster its widespread implementation in different economic sectors, data protection by design shall be a prerequisite for public procurement tenders according to Directive 2004/18/EC of the European Parliament and of the Council[48a] as well as according to Directive 2004/17/EC of the European Parliament and of the Council[48b] (Utilities Directive).
2. The controller shall ***implement mechanisms for ensuring*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected ***or*** retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.	2. The controller shall ***ensure*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected***,*** retained ***or disseminated*** beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals ***and that data subjects are able to control the distribution of their personal data***.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.	
4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those	

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

[48a] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

[48b] Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sector (OJ L 134, 30.4.2004, p. 1).

Amendment 119

Proposal for a regulation
Article 24

Text proposed by the Commission	*Amendment*
Joint controllers	Joint controllers
Where ***a controller determines*** the purposes***, conditions*** and means of the processing of personal data ***jointly with others***, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of a***n*** arrangement between them.	Where ***several controllers jointly determine*** the purposes and means of the processing of personal data, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them. ***The arrangement shall duly reflect the joint controllers' respective effective roles and relationships vis-à-vis data subjects, and the essence of the arrangement shall be made available for the data subject. In case of unclarity of the responsibility, the controllers shall be jointly and severally liable.***

Amendment 120

Proposal for a regulation
Article 25

Text proposed by the Commission	*Amendment*
Representatives of controllers not established in the Union	Representatives of controllers not established in the Union
1. In the situation referred to in Article 3(2), the controller shall designate a representative in the Union.	1. In the situation referred to in Article 3(2), the controller shall designate a representative in the Union.
2. This obligation shall not apply to:	2. This obligation shall not apply to:
(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance with Article 41; or	(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance with Article 41; or
(b) ***an enterprise employing fewer than 250 persons***; or	***(b) a controller processing personal data which relates to less than 5000 data subjects during any consecutive 12-month period and not processing special categories of personal data as referred to in Article 9(1), location data or data on children or employees in large-scale filing systems***; or
(c) a public authority or body; or	(c) a public authority or body; or
(d) a controller ***offering*** only occasionally goods or services to data subjects ***residing*** in the Union.	(d) a controller only occasionally ***offering*** goods or services to data subjects in the Union***, unless the processing of personal data concerns special categories of personal data as referred to in Article 9(1), location data or data on children or employees in large-scale filing systems***.
3. The representative shall be established in one of those Member States where ***the data subjects whose personal data are processed in relation to*** the offering of goods or services to ***them***, or ***whose behaviour is monitored, reside***.	3. The representative shall be established in one of those Member States where the offering of goods or services to ***the data subjects***, or ***the monitoring of them***, ***take place***.
4. The designation of a representative by the controller shall be without prejudice to legal actions which could be initiated against the controller itself.	4. The designation of a representative by the controller shall be without prejudice to legal actions which could be initiated against the controller itself.

Amendment 121

Proposal for a regulation
Article 26

Text proposed by the Commission	*Amendment*
Processor	Processor
1. Where ***a*** processing ***operation*** is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.	1. Where processing is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.
2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller ***and stipulating in particular that*** the processor shall:	2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller***. The controller and the processor shall be free to determine respective roles and tasks with respect to the requirements of this Regulation, and shall provide that*** the processor shall:
(a) ***act*** only on instructions from the controller, ***in particular, where the transfer of the personal data used is prohibited***;	**(a)** ***process personal data*** only on instructions from the controller**,** ***unless otherwise required by Union law or Member State law***;
(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality;	(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality;
(c) take all required measures pursuant to Article 30;	(c) take all required measures pursuant to Article 30;
(d) ***enlist*** another processor only with the prior permission of the controller;	(d) ***determine the conditions for enlisting*** another processor only with the prior permission of the controller***, unless otherwise determined***;
(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the ***necessary*** technical and organisational	(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the ***appropriate and relevant*** technical and

requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;	organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;
(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34;	(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34***, taking into account the nature of processing and the information available to the processor;***
(g) ***hand over*** all results to the controller after the end of the processing ***and*** not process the personal data otherwise;	(g) ***return*** all results to the controller after the end of the processing, not process the personal data otherwise ***and delete existing copies unless Union or Member State law requires storage of the data*****;**
(h) make available to the controller ***and the supervisory authority*** all information necessary to ***control*** compliance with the obligations laid down in this Article.	(h) make available to the controller all information necessary to ***demonstrate*** compliance with the obligations laid down in this Article ***and allow on-site inspections*****;**
3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2.	3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2.
	3a. The sufficient guarantees referred to in paragraph 1 may be demonstrated by adherence to codes of conduct or certification mechanisms pursuant to Articles 38 or 39 of this Regulation.
4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.	4. If a processor processes personal data other than as instructed by the controller ***or becomes the determining party in relation to the purposes and means of data processing***, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and	

reporting.

Amendment 122

Proposal for a regulation
Article 28

Text proposed by the Commission	*Amendment*
Documentation	Documentation
1. Each controller and processor ***and, if any, the controller's representative,*** shall maintain documentation ***of all processing operations under its responsibility***.	1. Each controller and processor shall maintain ***regularly updated*** documentation ***necessary to fulfill the requirements laid down in this Regulation***.
2. ***The*** documentation ***shall contain at least*** the following information:	2. ***In addition, each controller and processor shall maintain*** documentation ***of*** the following information:
(a) the name and contact details of the controller, or any joint controller or processor, and of the representative, if any;	(a) the name and contact details of the controller, or any joint controller or processor, and of the representative, if any;
(b) the name and contact details of the data protection officer, if any;	(b) the name and contact details of the data protection officer, if any;
(c) the purposes of the processing, including the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);	
(d) a description of categories of data subjects and of the categories of personal data relating to them;	
(e) ***the recipients or categories of recipients of the personal data, including*** the controllers to whom personal data are disclosed ***for the legitimate interest pursued by them***;	(e) ***the name and contact details of*** the controllers to whom personal data are disclosed***, if any***;
(f) where applicable, transfers of data to a third country or an international organisation, including the identification of that third country or international organisation and, in case of transfers referred to in point (h) of Article 44(1), the documentation of appropriate safeguards;	
(g) a general indication of the time limits for erasure of the different categories of data;	

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

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

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

deleted

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

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

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

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

Amendment 123

Proposal for a regulation
Article 29 – paragraph 1

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

Amendment 124

Proposal for a regulation
Article 30

Text proposed by the Commission	*Amendment*
Security of processing	Security of processing
1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing ***and the nature of the personal data to be protected***, having regard to the state of the art and the costs of their implementation.	1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing***, taking into account the results of a data protection impact assessment pursuant to Article 33,*** having regard to the state of the art and the costs of their implementation.
	1a. Having regard to the state of the art and the cost of implementation, such a security policy shall include:
	(a) the ability to ensure that the integrity of the personal data is validated;
	(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of systems and services processing personal data;
	(c) the ability to restore the availability and access to data in a timely manner in the event of a physical or technical incident that impacts the availability, integrity and confidentiality of information systems and services;
	(d) in the case of sensitive personal data processing according to Articles 8 and 9, additional security measures to ensure situational awareness of risks and the ability to take preventive, corrective and mitigating action in near real time against vulnerabilities or incidents detected that could pose a risk to the data;
	(e) a process for regularly testing, assessing and evaluating the effectiveness of security policies, procedures and plans put in place to ensure ongoing effectiveness.
2. The ***controller and the processor*** shall, ***following an evaluation of the risks, take***	2. The measures referred to in paragraph 1

the measures referred to in paragraph 1 ***to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.***	***shall at least:***
	(a) ensure that personal data can be accessed only by authorised personnel for legally authorised purposes;
	(b) protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration, and unauthorised or unlawful storage, processing, access or disclosure; and
	(c) ensure the implementation of a security policy with respect to the processing of personal data.
3. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of ***further specifying the criteria and conditions*** for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default***, unless paragraph 4 applies***.	3. The ***European Data Protection Board*** **shall be** ***entrusted with the task*** **of** ***issuing guidelines, recommendations and best practices in accordance with point (b) of Article 66*** **(*1*)** for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default.
4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:	
(a) prevent any unauthorised access to personal data;	
(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;	
(c) ensure the verification of the lawfulness of processing operations.	
Those implementing acts shall be adopted in accordance with the examination	

procedure referred to in Article 87(2).

(Paragraph 2 in the Commission text has partly become point (b) in Parliament's amendment).

Amendment 125

Proposal for a regulation
Article 31

Text proposed by the Commission	*Amendment*
Notification of a personal data breach to the supervisory authority	Notification of a personal data breach to the supervisory authority
1. In the case of a personal data breach, the controller shall without undue delay ***and, where feasible, not later than 24 hours after having become aware of it,*** notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***	1. In the case of a personal data breach, the controller shall without undue delay notify the personal data breach to the supervisory authority.
2. ***Pursuant to point (f) of Article 26(2),*** the processor shall alert and inform the controller ***immediately*** after the establishment of a personal data breach.	2. The processor shall alert and inform the controller ***without undue delay*** after the establishment of a personal data breach.
3. The notification referred to in paragraph 1 must at least:	3. The notification referred to in paragraph 1 must at least:
(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;	(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;
(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;	(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;
(c) recommend measures to mitigate the possible adverse effects of the personal data breach;	(c) recommend measures to mitigate the possible adverse effects of the personal data breach;
(d) describe the consequences of the personal data breach;	(d) describe the consequences of the personal data breach;
(e) describe the measures proposed or taken by the controller to address the	(e) describe the measures proposed or taken by the controller to address the

personal data breach.	personal data breach. ***and mitigate its effects.***
	The information may if necessary be provided in phases.
4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.	4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must ***be sufficient to*** enable the supervisory authority to verify compliance with this Article ***and with Article 30***. The documentation shall only include the information necessary for that purpose.
	4a. The supervisory authority shall keep a public register of the types of breaches notified.
5. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of ***further specifying the criteria and requirements*** for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor ***is*** required to notify the personal data breach.	**5.** The ***European Data Protection Board*** shall be ***entrusted with the task*** of ***issuing guidelines, recommendations and best practices in accordance with point (b) of Article 66 (1)*** for establishing the data breach ***and determining the undue delay*** referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor ***are*** required to notify the personal data breach.
6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	

Amendment 126

Proposal for a regulation
Article 32

Text proposed by the Commission	*Amendment*
Communication of a personal data breach	Communication of a personal data breach

to the data subject	to the data subject
1. When the personal data breach is likely to adversely affect the protection of the personal data ***or*** privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.	1. When the personal data breach is likely to adversely affect the protection of the personal data***, the*** privacy***, the rights or the legitimate interests*** of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.
2. The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points (b) ***and*** (c) of Article 31(3).	The communication to the data subject referred to in paragraph 1 shall ***be comprehensive and use clear and plain language. It shall*** describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points (b)***,*** (c) ***and (d)*** of Article 31(3) ***and information about the rights of the data subject, including redress.***
3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.	3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.
4. Without prejudice to the controller's obligation to communicate the personal data breach to the data subject, if the controller has not already communicated the personal data breach to the data subject of the personal data breach, the supervisory authority, having considered the likely adverse effects of the breach, may require it to do so.	4. Without prejudice to the controller's obligation to communicate the personal data breach to the data subject, if the controller has not already communicated the personal data breach to the data subject of the personal data breach, the supervisory authority, having considered the likely adverse effects of the breach, may require it to do so.
5. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86 for the purpose*** of ***further specifying the criteria and requirements*** as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.	The ***European Data Protection Board*** shall be ***entrusted with the task*** of ***issuing guidelines, recommendations and best practices in accordance with point (b) of Article 66 (1)*** as to the circumstances in which a personal data breach is likely to adversely affect the personal data***, the privacy, the rights or the legitimate interests of the data subject*** referred to in

paragraph 1.

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

Amendment 127

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission	*Amendment*
	Article 32a
	Respect to Risk
	1. The controller, or where applicable the processor, shall carry out a risk analysis of the potential impact of the intended data processing on the rights and freedoms of the data subjects, assessing whether its processing operations are likely to present specific risks.
	2. The following processing operations are likely to present specific risks:
	(a) processing of personal data relating to more than 5000 data subjects during any consecutive 12-month period;
	(b) processing of special categories of personal data as referred to in Article 9(1), location data or data on children or employees in large scale filing systems;
	(c) profiling on which measures are based that produce legal effects concerning the individual or similarly significantly affect the individual;
	(d) processing of personal data for the provision of health care, epidemiological researches, or surveys of mental or infectious diseases, where the data are processed for taking measures or decisions regarding specific individuals on a large scale;

(e) automated monitoring of publicly accessible areas on a large scale;

(f) other processing operations for which the consultation of the data protection officer or supervisory authority is required pursuant to point (b) of Article 34(2);

(g) where a personal data breach would likely adversely affect the protection of the personal data, the privacy, the rights or the legitimate interests of the data subject;

(h) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects;

(i) where personal data are made accessible to a number of persons which cannot reasonably be expected to be limited.

3. According to the result of the risk analysis:

(a) where any of the processing operations referred to in points (a) or (b) of paragraph 2 exist, controllers not established in the Union shall designate a representative in the Union in line with the requirements and exemptions laid down in Article 25;

(b) where any of the processing operations referred to in points (a), (b) or (h)of paragraph 2 exist, the controller shall designate a data protection officer in line with the requirements and exemptions laid down in Article 35;

(c) where any of the processing operations referred to in points (a), (b), (c), (d), (e), (f), (g) or (h) of paragraph 2 exist, the controller or the processor acting on the controller's behalf shall carry out a data protection impact assessment pursuant to Article 33;

(d) where processing operations referred to in point (f) of paragraph 2 exist, the controller shall consult the data

	protection officer, or in case a data protection officer has not been appointed, the supervisory authority pursuant to Article 34.
	4. The risk analysis shall be reviewed at the latest after one year, or immediately, if the nature, the scope or the purposes of the data processing operations change significantly. Where pursuant to point (c) of paragraph 3 the controller is not obliged to carry out a data protection impact assessment, the risk analysis shall be documented.

Amendment 128

Proposal for a regulation
Chapter 4 – section 3 – title

Text proposed by the Commission	*Amendment*
DATA PROTECTION ***IMPACT ASSESSMENT AND PRIOR AUTHORISATION***	***LIFECYCLE*** DATA PROTECTION ***MANAGEMENT***

Amendment 129

Proposal for a regulation
Article 33

Text proposed by the Commission	*Amendment*
Data protection impact assessment	Data protection impact assessment
1. Where ***processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes,*** the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.	1. Where ***required pursuant to point (c) of Article 32a(3)*** the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the ***rights and freedoms of the data subjects, especially their right to*** protection of personal data. ***A single assessment shall be sufficient to address a set of similar processing operations that present similar risks.***
2. The following processing operations in particular present specific risks referred to in paragraph 1:	

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

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

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

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

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

3. The assessment shall contain at least a ***general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons*** *concerned.*

3. The assessment shall ***have regard to the entire lifecycle management of personal data from collection to processing to deletion. It shall*** contain at least***:***

(a) a systematic description of the envisaged processing operations, the purposes of the processing and, if applicable, the legitimate interests pursued by the controller;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the purposes;

(c) an assessment of the risks to the rights and freedoms of data subjects, including the risk of discrimination being embedded in or reinforced by the operation;

(d) a description of the measures envisaged to address the risks and minimise the volume of personal data which is processed;

(e) a list of safeguards, security measures and mechanisms to ensure the protection of personal data, such as pseudonymisation, and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned;

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

(g) an explanation which data protection by design and default practices pursuant to Article 23 have been implemented;

(h) a list of the recipients or categories of recipients of the personal data;

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

(j) an assessment of the context of the data processing.

3a. If the controller or the processor has designated a data protection officer, he or she shall be involved in the impact assessment proceeding.

3b. The assessment shall be documented and lay down a schedule for regular periodic data protection compliance reviews pursuant to Article 33a(1). The

		assessment shall be updated without undue delay, if the results of the data protection compliance review referred to in Article 33a show compliance inconsistencies. The controller and the processor and, if any, the controller's representative shall make the assessment available, on request, to the supervisory authority.
4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.		
5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.		
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.		
7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).		
(Paragraph 3 in the Commission text has partly become points (a), (c), (d) and (e) in		

Parliament's amendment).

Amendment 130

Proposal for a regulation
Article 33 a (new)

Text proposed by the Commission	*Amendment*
	Article 33a
	Data protection compliance review
	1. At the latest two years after the carrying out of an impact assessment pursuant to Article 33(1), the controller or the processor acting on the controller's behalf shall carry out a compliance review. This compliance review shall demonstrate that the processing of personal data is performed in compliance with the data protection impact assessment.
	2. The compliance review shall be carried out periodically at least once every two years, or immediately when there is a change in the specific risks presented by the processing operations.
	3. Where the compliance review results show compliance inconsistencies, the compliance review shall include recommendations on how to achieve full compliance.
	4. The compliance review and its recommendations shall be documented. The controller and the processor and, if any, the controller's representative shall make the compliance review available, on request, to the supervisory authority.
	5. If the controller or the processor has designated a data protection officer, he or she shall be involved in the compliance review proceeding.

Amendment 131

Proposal for a regulation
Article 34

Text proposed by the Commission	*Amendment*
Prior ***authorisation and prior*** consultation	Prior consultation
1. The controller or the processor as the case may be shall obtain an authorisation from the supervisory authority prior to the processing of personal data, in order to ensure the compliance of the intended processing with this Regulation and in particular to mitigate the risks involved for the data subjects where a controller or processor adopts contractual clauses as provided for in point (d) of Article 42(2) or does not provide for the appropriate safeguards in a legally binding instrument as referred to in Article 42(5) for the transfer of personal data to a third country or an international organisation.	
2. The controller or processor acting on the controller's behalf shall consult the supervisory authority prior to the processing of personal data in order to ensure the compliance of the intended processing with this Regulation and in particular to mitigate the risks involved for the data subjects where:	2. The controller or processor acting on the controller's behalf shall consult the ***data protection officer, or in case a data protection officer has not been appointed, the*** supervisory authority prior to the processing of personal data in order to ensure the compliance of the intended processing with this Regulation and in particular to mitigate the risks involved for the data subjects where:
(a) a data protection impact assessment as provided for in Article 33 indicates that processing operations are by virtue of their nature, their scope or their purposes, likely to present a high degree of specific risks; or	(a) a data protection impact assessment as provided for in Article 33 indicates that processing operations are by virtue of their nature, their scope or their purposes, likely to present a high degree of specific risks; or
(b) the supervisory authority deems it necessary to carry out a prior consultation on processing operations that are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope and/or their purposes, and specified according to paragraph 4.	(b) ***the data protection officer or*** the supervisory authority deems it necessary to carry out a prior consultation on processing operations that are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope and/or their purposes, and specified according to paragraph 4.
3. Where the supervisory authority ***is of the***	3. Where the ***competent*** supervisory

opinion that the intended processing does not comply with this Regulation, in particular where risks are insufficiently identified or mitigated, it shall prohibit the intended processing and make appropriate proposals to remedy such incompliance.

authority ***determines in accordance with its power*** that the intended processing does not comply with this Regulation, in particular where risks are insufficiently identified or mitigated, it shall prohibit the intended processing and make appropriate proposals to remedy such incompliance.

4. The ***supervisory authority*** shall establish and make public a list of the processing operations which are subject to prior consultation pursuant to ***point (b) of*** paragraph 2. ***The supervisory authority shall communicate those lists to the European Data Protection Board.***

4. The ***European Data Protection Board*** shall establish and make public a list of the processing operations which are subject to prior consultation pursuant to paragraph 2.

5. Where the list provided for in paragraph 4 involves 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 may substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57 prior to the adoption of the list.

6. The controller or processor shall provide the supervisory authority with the data protection impact assessment ***provided for in*** Article 33 and, on request, with any other information to allow the supervisory authority to make an assessment of the compliance of the processing and in particular of the risks for the protection of personal data of the data subject and of the related safeguards.

6. The controller or processor shall provide the supervisory authority, ***on request,*** with the data protection impact assessment ***pursuant to*** Article 33 and, on request, with any other information to allow the supervisory authority to make an assessment of the compliance of the processing and in particular of the risks for the protection of personal data of the data subject and of the related safeguards.

7. Member States shall consult the supervisory authority in the preparation of a legislative measure to be adopted by the national parliament or of a measure based on such a legislative measure, which defines the nature of the processing, in order to ensure the compliance of the intended processing with this Regulation and in particular to mitigate the risks involved for the data subjects.

7. Member States shall consult the supervisory authority in the preparation of a legislative measure to be adopted by the national parliament or of a measure based on such a legislative measure, which defines the nature of the processing, in order to ensure the compliance of the intended processing with this Regulation and in particular to mitigate the risks involved for the data subjects.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further

specifying the criteria and requirements for determining the high degree of specific risk referred to in point (a) of paragraph 2.

9. The Commission may set out standard forms and procedures for prior authorisations and consultations referred to in paragraphs 1 and 2, and standard forms and procedures for informing the supervisory authorities pursuant to paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 132

Proposal for a regulation
Article 35

Text proposed by the Commission	*Amendment*
Designation of the data protection officer	Designation of the data protection officer
1. The controller and the processor shall designate a data protection officer in any case where:	1. The controller and the processor shall designate a data protection officer in any case where:
(a) the processing is carried out by a public authority or body; or	(a) the processing is carried out by a public authority or body; or
(b) the processing is carried out by ***an enterprise employing 250 persons or more***; or	(b) the processing is carried out by ***a legal person and relates to more than 5000 data subjects in any consecutive 12-month period;*** or
(c) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects.	(c) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects***; or***
	(d) the core activities of the controller or the processor consist of processing special categories of data pursuant to Article 9(1), location data or data on children or employees in large scale filing systems.
2. ***In the case referred to in point (b) of paragraph 1,*** a group of undertakings may appoint a ***single*** data protection officer.	2. A group of undertakings may appoint a ***main responsible*** data protection officer***, provided it is ensured that a data protection officer is easily accessible from***

	each establishment.
3. Where the controller or the processor is a public authority or body, the data protection officer may be designated for several of its entities, taking account of the organisational structure of the public authority or body.	3. Where the controller or the processor is a public authority or body, the data protection officer may be designated for several of its entities, taking account of the organisational structure of the public authority or body.
4. In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may designate a data protection officer.	4. In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may designate a data protection officer.
5. The controller or processor shall designate the data protection officer on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and ability to fulfil the tasks referred to in Article 37. The necessary level of expert knowledge shall be determined in particular according to the data processing carried out and the protection required for the personal data processed by the controller or the processor.	5. The controller or processor shall designate the data protection officer on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and ability to fulfil the tasks referred to in Article 37. The necessary level of expert knowledge shall be determined in particular according to the data processing carried out and the protection required for the personal data processed by the controller or the processor.
6. The controller or the processor shall ensure that any other professional duties of the data protection officer are compatible with the person's tasks and duties as data protection officer and do not result in a conflict of interests.	6. The controller or the processor shall ensure that any other professional duties of the data protection officer are compatible with the person's tasks and duties as data protection officer and do not result in a conflict of interests.
7. The controller or the processor shall designate a data protection officer for a period of at least ***two*** years. The data protection officer may be reappointed for further terms. During ***their*** term of office, the data protection officer may only be dismissed, if ***the data protection officer*** no longer fulfils the conditions required for the performance of ***their*** duties.	7. The controller or the processor shall designate a data protection officer for a period of at least ***four*** years ***in case of an employee or two years in case of an external service contractor***. The data protection officer may be reappointed for further terms. During ***his or her*** term of office, the data protection officer may only be dismissed if ***he or she*** no longer fulfils the conditions required for the performance of his or her duties.
8. The data protection officer may be employed by the controller or processor, or fulfil his or her tasks on the basis of a service contract.	8. The data protection officer may be employed by the controller or processor, or fulfil his or her tasks on the basis of a service contract.
9. The controller or the processor shall communicate the name and contact details	9. The controller or the processor shall communicate the name and contact details

of the data protection officer to the supervisory authority and to the public.	of the data protection officer to the supervisory authority and to the public.
10. Data subjects shall have the right to contact the data protection officer on all issues related to the processing of the data subject's data and to request exercising the rights under this Regulation.	10. Data subjects shall have the right to contact the data protection officer on all issues related to the processing of the data subject's data and to request exercising the rights under this Regulation.
11. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the core activities of the controller or the processor referred to in point (c) of paragraph 1 and the criteria for the professional qualities of the data protection officer referred to in paragraph 5.	

Amendment 133

Proposal for a regulation
Article 36

Text proposed by the Commission	*Amendment*
Position of the data protection officer	Position of the data protection officer
1. The controller or the processor shall ensure that the data protection officer is properly and in a timely manner involved in all issues which relate to the protection of personal data.	1. The controller or the processor shall ensure that the data protection officer is properly and in a timely manner involved in all issues which relate to the protection of personal data.
2. The controller or processor shall ensure that the data protection officer performs the duties and tasks independently and does not receive any instructions as regards the exercise of the function. The data protection officer shall directly report to the management of the controller or the processor.	2. The controller or processor shall ensure that the data protection officer performs the duties and tasks independently and does not receive any instructions as regards the exercise of the function. The data protection officer shall directly report to the ***executive*** management of the controller or the processor. ***The controller or processor shall for this purpose designate an executive management member who shall be responsible for the compliance with the provisions of this Regulation.***
3. The controller or the processor shall support the data protection officer in performing the tasks and shall provide staff, premises, equipment and any other resources necessary to carry out the duties	3. The controller or the processor shall support the data protection officer in performing the tasks and shall provide ***all means, including*** staff, premises, equipment and any other resources

and tasks referred to in Article 37.	necessary to carry out the duties and tasks referred to in Article 37***, and to maintain his or her professional knowledge***. ***4. Data protection officers shall be bound by secrecy concerning the identity of data subjects and concerning circumstances enabling data subjects to be identified, unless they are released from that obligation by the data subject.***

Amendment 134

Proposal for a regulation
Article 37

Text proposed by the Commission	*Amendment*
Tasks of the data protection officer	Tasks of the data protection officer
1. The controller or the processor shall entrust the data protection officer at least with the following tasks:	The controller or the processor shall entrust the data protection officer at least with the following tasks:
(a) to inform and advise the controller or the processor of their obligations pursuant to this Regulation and to document this activity and the responses received;	(a) ***to raise awareness,*** to inform and advise the controller or the processor of their obligations pursuant to this Regulation***, in particular with regard to technical and organisational measures and procedures,*** and to document this activity and the responses received;
(b) to monitor the implementation and application of the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, the training of staff involved in the processing operations, and the related audits;	(b) to monitor the implementation and application of the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, the training of staff involved in the processing operations, and the related audits;
(c) to monitor the implementation and application of this Regulation, in particular as to the requirements related to data protection by design, data protection by default and data security and to the information of data subjects and their requests in exercising their rights under this Regulation;	(c) to monitor the implementation and application of this Regulation, in particular as to the requirements related to data protection by design, data protection by default and data security and to the information of data subjects and their requests in exercising their rights under this Regulation;
(d) to ensure that the documentation referred to in Article 28 is maintained;	(d) to ensure that the documentation referred to in Article 28 is maintained;
(e) to monitor the documentation, notification and communication of	(e) to monitor the documentation, notification and communication of

personal data breaches pursuant to Articles 31 and 32;	personal data breaches pursuant to Articles 31 and 32;
(f) to monitor the performance of the data protection impact assessment by the controller or processor and the application for prior ***authorisation or prior*** consultation, if required pursuant Articles 33 and 34;	(f) to monitor the performance of the data protection impact assessment by the controller or processor and the application for prior consultation, if required pursuant ***to*** Articles ***32a,*** 33 and 34;
(g) to monitor the response to requests from the supervisory authority, and, within the sphere of the data protection officer's competence, co-operating with the supervisory authority at the latter's request or on the data protection officer's own initiative;	(g) to monitor the response to requests from the supervisory authority, and, within the sphere of the data protection officer's competence, co-operating with the supervisory authority at the latter's request or on the data protection officer's own initiative;
(h) to act as the contact point for the supervisory authority on issues related to the processing and consult with the supervisory authority, if appropriate, on his/her own initiative.	(h) to act as the contact point for the supervisory authority on issues related to the processing and consult with the supervisory authority, if appropriate, on his/her own initiative.
	(i) to verify the compliance with this Regulation under the prior consultation mechanism laid out in Article 34;
	(j) to inform the employee representatives on data processing of the employees.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for tasks, certification, status, powers and resources of the data protection officer referred to in paragraph 1.	

Amendment 135

Proposal for a regulation
Article 38

Text proposed by the Commission	*Amendment*
Codes of conduct	Codes of conduct
1. The Member States, the supervisory authorities and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation,	1. The Member States, the supervisory authorities and the Commission shall encourage the drawing up of codes of conduct ***or the adoption of codes of conduct drawn up by a supervisory***

taking account of the specific features of the various data processing sectors, in particular in relation to:	***authority*** intended to contribute to the proper application of this Regulation, taking account of the specific features of the various data processing sectors, in particular in relation to:
(a) fair and transparent data processing;	(a) fair and transparent data processing;
	(aa) respect for consumer rights;
(b) the collection of data;	(b) the collection of data;
(c) the information of the public and of data subjects;	(c) the information of the public and of data subjects;
(d) requests of data subjects in exercise of their rights;	(d) requests of data subjects in exercise of their rights;
(e) information and protection of children;	(e) information and protection of children;
(f) transfer of data to third countries or international organisations;	(f) transfer of data to third countries or international organisations;
(g) mechanisms for monitoring and ensuring compliance with the code by the controllers adherent to it;	(g) mechanisms for monitoring and ensuring compliance with the code by the controllers adherent to it;
(h) out-of-court proceedings and other dispute resolution procedures for resolving disputes between controllers and data subjects with respect to the processing of personal data, without prejudice to the rights of the data subjects pursuant to Articles 73 and 75.	(h) out-of-court proceedings and other dispute resolution procedures for resolving disputes between controllers and data subjects with respect to the processing of personal data, without prejudice to the rights of the data subjects pursuant to Articles 73 and 75.
2. Associations and other bodies representing categories of controllers or processors in one Member State which intend to draw up codes of conduct or to amend or extend existing codes of conduct may submit them to an opinion of the supervisory authority in that Member State. The supervisory authority ***may*** give an opinion whether the draft code of conduct or the amendment is in compliance with this Regulation. The supervisory authority shall seek the views of data subjects or their representatives on these drafts.	2. Associations and other bodies representing categories of controllers or processors in one Member State which intend to draw up codes of conduct or to amend or extend existing codes of conduct may submit them to an opinion of the supervisory authority in that Member State. The supervisory authority ***shall without undue delay*** give an opinion ***on*** whether ***the processing under*** the draft code of conduct or the amendment is in compliance with this Regulation. The supervisory authority shall seek the views of data subjects or their representatives on these drafts.
3. Associations and other bodies representing categories of controllers in several Member States may submit draft codes of conduct and amendments or extensions to existing codes of conduct to	3. Associations and other bodies representing categories of controllers ***or processors*** in several Member States may submit draft codes of conduct and amendments or extensions to existing

the Commission.	codes of conduct to the Commission.
4. The Commission ***may adopt implementing acts*** for deciding that the codes of conduct and amendments or extensions to existing codes of conduct submitted to it pursuant to paragraph 3 have general validity within the Union. ***Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).***	4. 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 deciding that the codes of conduct and amendments or extensions to existing codes of conduct submitted to it pursuant to paragraph 3 ***are in line with this Regulation and*** have general validity within the Union. ***Those delegated acts shall confer enforceable rights on data subjects.***
5. The Commission shall ensure appropriate publicity for the codes which have been decided as having general validity in accordance with paragraph 4.	5. The Commission shall ensure appropriate publicity for the codes which have been decided as having general validity in accordance with paragraph 4.

Amendment 136

Proposal for a regulation
Article 39

Text proposed by the Commission	*Amendment*
Certification	Certification
1. The Member States and the Commission shall encourage, in particular at European level, the establishment of data protection certification mechanisms and of data protection seals and marks, allowing data subjects to quickly assess the level of data protection provided by controllers and processors. The data protection certifications mechanisms shall contribute to the proper application of this Regulation, taking account of the specific features of the various sectors and different processing operations.	
	1a. Any controller or processor may request any supervisory authority in the Union, for a reasonable fee taking into account the administrative costs, to certify that the processing of personal data is performed in compliance with this Regulation, in particular with the principles set out in Article 5, 23 and 30,

the obligations of the controller and the processor, and the data subject's rights.

1b. The certification shall be voluntary, affordable, and available via a process that is transparent and not unduly burdensome.

1c. The supervisory authorities and the European Data Protection Board shall cooperate under the consistency mechanism pursuant to Article 57 to guarantee a harmonised data protection certification mechanism including harmonised fees within the Union.

1d. During the certification procedure, the supervisory authority may accredit specialised third party auditors to carry out the auditing of the controller or the processor on their behalf. Third party auditors shall have sufficiently qualified staff, be impartial and free from any conflict of interests regarding their duties. Supervisory authorities shall revoke accreditation, if there are reasons to believe that the auditor does not fulfil its duties correctly. The final certification shall be provided by the supervisory authority.

1e. Supervisory authorities shall grant controllers and processors, who pursuant to the auditing have been certified that they process personal data in compliance with this Regulation, the standardised data protection mark named "European Data Protection Seal".

1f. The "European Data Protection Seal" shall be valid for as long as the data processing operations of the certified controller or processor continue to fully comply with this Regulation.

1g. Notwithstanding paragraph 1f, the certification shall be valid for maximum five years.

1h. The European Data Protection Board shall establish a public electronic register in which all valid and invalid certificates which have been issued in the Member

	States can be viewed by the public.
	1i. The European Data Protection Board may on its own initiative certify that a data protection-enhancing technical standard is compliant with this Regulation.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the data protection certification mechanisms referred to in ***paragraph 1***, including conditions for granting and withdrawal, and requirements for recognition within the Union and in third countries.	2. The Commission shall be empowered to adopt***, after requesting an opinion of the European Data Protection Board and consulting with stakeholders, in particular industry and non-governmental organisations,*** delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the data protection certification mechanisms referred to in ***paragraphs 1a to 1h***, including ***requirements for accreditation of auditors,*** conditions for granting and withdrawal, and requirements for recognition within the Union and in third countries. ***Those delegated acts shall confer enforceable rights on data subjects.***
3. The Commission may lay down technical standards for certification mechanisms and data protection seals and marks and mechanisms to promote and recognize certification mechanisms and data protection seals and marks. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).	

Amendment 137

Proposal for a regulation
Article 41

Text proposed by the Commission	*Amendment*
Transfers with an adequacy decision	Transfers with an adequacy decision
1. A transfer may take place where the Commission has decided that the third country, or a territory or a processing sector within that third country, or the international organisation in question ensures an adequate level of protection.	1. A transfer may take place where the Commission has decided that the third country, or a territory or a processing sector within that third country, or the international organisation in question ensures an adequate level of protection.

Such transfer shall not require any ***further*** authorisation.	Such transfer shall not require any ***specific*** authorisation.
2. When assessing the adequacy of the level of protection, the Commission shall give consideration to the following elements:	2. When assessing the adequacy of the level of protection, the Commission shall give consideration to the following elements:
(a) the rule of law, relevant legislation in force, both general and sectoral, including concerning public security, defence, national security and criminal law, the professional rules and security measures which are complied with in that country or by that international organisation, as well as effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred;	(a) the rule of law, relevant legislation in force, both general and sectoral, including concerning public security, defence, national security and criminal law ***as well as the implementation of this legislation***, the professional rules and security measures which are complied with in that country or by that international organisation, ***jurisprudential precedents,*** as well as effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred;
(b) the existence and effective functioning of one or more independent supervisory authorities in the third country or international organisation in question responsible for ensuring compliance with the data protection rules, for assisting and advising the data subjects in exercising their rights and for co-operation with the supervisory authorities of the Union and of Member States; and	(b) the existence and effective functioning of one or more independent supervisory authorities in the third country or international organisation in question responsible for ensuring compliance with the data protection rules, ***including sufficient sanctioning powers***, for assisting and advising the data subjects in exercising their rights and for co-operation with the supervisory authorities of the Union and of Member States; and
(c) the international commitments the third country or international organisation in question has entered into.	(c) the international commitments the third country or international organisation in question has entered into***, in particular any legally binding conventions or instruments with respect to the protection of personal data***.
3. The Commission ***may*** decide that a third country, or a territory or a processing sector within that third country, or an international organisation ensures an adequate level of protection within the meaning of paragraph 2. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***	3. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 to*** decide that a third country, or a territory or a processing sector within that third country, or an international organisation ensures an adequate level of protection within the meaning of paragraph 2. ***Such delegated acts shall provide for a sunset clause if they concern a processing sector and shall be revoked according to***

	paragraph 5 as soon as an adequate level of protection according to this Regulation is no longer ensured.
4. The ***implementing*** act shall specify its ***geographical*** and sectoral application, and, where applicable, identify the supervisory authority mentioned in point (b) of paragraph 2.	4. The ***delegated*** act shall specify its ***territorial*** and sectoral application, and, where applicable, identify the supervisory authority mentioned in point (b) of paragraph 2.
	4a. The Commission shall, on an on-going basis, monitor developments in third countries and international organisations that could affect the elements listed in paragraph 2 where a delegated act pursuant to paragraph 3 has been adopted.
5. The Commission ***may*** decide that a third country, or a territory or a processing sector within that third country, or an international organisation does not ensure an adequate level of protection within the meaning of paragraph 2 of this Article, in particular in cases where the relevant legislation, both general and sectoral, in force in the third country or international organisation, does not guarantee effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2), or, in cases of extreme urgency for individuals with respect to their right to personal data protection, in accordance with the procedure referred to in Article 87(3).***	5. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 to*** decide that a third country, or a territory or a processing sector within that third country, or an international organisation does not ensure ***or no longer ensures*** an adequate level of protection within the meaning of paragraph 2 of this Article, in particular in cases where the relevant legislation, both general and sectoral, in force in the third country or international organisation, does not guarantee effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred.
6. Where the Commission decides pursuant to paragraph 5, any transfer of personal data to the third country, or a territory or a processing sector within that third country, or the international organisation in question shall be prohibited, without prejudice to Articles 42 to 44. At the appropriate time, the Commission shall enter into consultations with the third country or international organisation with a view to	6. Where the Commission decides pursuant to paragraph 5, any transfer of personal data to the third country, or a territory or a processing sector within that third country, or the international organisation in question shall be prohibited, without prejudice to Articles 42 to 44. At the appropriate time, the Commission shall enter into consultations with the third country or international organisation with a view to

remedying the situation resulting from the ***Decision*** made pursuant to paragraph 5 of this Article.	remedying the situation resulting from the ***decision*** made pursuant to paragraph 5 of this Article.
	6a. Prior to adopting a delegated act pursuant to paragraphs 3 and 5, the Commission shall request the European Data Protection Board to provide an opinion on the adequacy of the level of protection. To that end, the Commission shall provide the European Data Protection Board with all necessary documentation, including correspondence with the government of the third country, territory or processing sector within that third country or the international organisation.
7. The Commission shall publish in the *Official Journal of the European Union* a list of those third countries, territories and processing sectors within a third country and international organisations where it has decided that an adequate level of protection is or is not ensured.	7. The Commission shall publish in the *Official Journal of the European Union* ***and on its website*** a list of those third countries, territories and processing sectors within a third country and international organisations where it has decided that an adequate level of protection is or is not ensured.
8. Decisions adopted by the Commission on the basis of Article 25(6) or Article 26(4) of Directive 95/46/EC shall remain in force***,*** until amended, replaced or repealed by the Commission.	8. Decisions adopted by the Commission on the basis of Article 25(6) or Article 26(4) of Directive 95/46/EC shall remain in force until ***five years after the entry into force of this Regulation unless*** amended, replaced or repealed by the Commission ***before the end of this period***.

Amendment 138

Proposal for a regulation
Article 42

Text proposed by the Commission	*Amendment*
Transfers by way of appropriate safeguards	Transfers by way of appropriate safeguards
1. Where the Commission has taken no decision pursuant to Article 41, a controller or processor may transfer personal data to a third country or an international organisation ***only if*** the controller or processor has adduced appropriate	1. Where the Commission has taken no decision pursuant to Article 41, ***or decides that a third country, or a territory or processing sector within that third country, or an international organisation does not ensure an adequate level of***

safeguards with respect to the protection of personal data in a legally binding instrument.	***protection in accordance with Article 41(5),*** a controller or processor may ***not*** transfer personal data to a third country, territory or an international organisation ***unless*** the controller or processor has adduced appropriate safeguards with respect to the protection of personal data in a legally binding instrument.
2. The appropriate safeguards referred to in paragraph 1 shall be provided for, in particular, by:	2. The appropriate safeguards referred to in paragraph 1 shall be provided for, in particular, by:
(a) binding corporate rules in accordance with Article 43; or	(a) binding corporate rules in accordance with Article 43; or
	(aa) a valid "European Data Protection Seal" for the controller and the recipient in accordance with paragraph 1e of Article 39; or
(b) standard data protection clauses adopted by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2); or	
(c) standard data protection clauses adopted by a supervisory authority in accordance with the consistency mechanism referred to in Article 57 when declared generally valid by the Commission pursuant to point (b) of Article 62(1); or	(c) standard data protection clauses adopted by a supervisory authority in accordance with the consistency mechanism referred to in Article 57 when declared generally valid by the Commission pursuant to point (b) of Article 62(1); or
(d) contractual clauses between the controller or processor and the recipient of the data authorised by a supervisory authority in accordance with paragraph 4.	(d) contractual clauses between the controller or processor and the recipient of the data authorised by a supervisory authority in accordance with paragraph 4.
3. A transfer based on standard data protection clauses or binding corporate rules as referred to in points (a), ***(b)*** or (c) of paragraph 2 shall not require any ***further*** authorisation.	3. A transfer based on standard data protection clauses***, a "European Data Protection Seal"*** or binding corporate rules as referred to in points (a), ***(aa)*** or (c) of paragraph 2 shall not require any ***specific*** authorisation.
4. Where a transfer is based on contractual clauses as referred to in point (d) of paragraph 2 of this Article the controller or processor shall obtain prior authorisation of the contractual clauses ***according to point (a) of Article 34(1)*** from the supervisory authority. If the transfer is related to	4. Where a transfer is based on contractual clauses as referred to in point (d) of paragraph 2 of this Article the controller or processor shall obtain prior authorisation of the contractual clauses from the supervisory authority. If the transfer is related to processing activities which

processing activities which concern data subjects in another Member State or other Member States, or substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57.	concern data subjects in another Member State or other Member States, or substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57.
5. ***Where the appropriate safeguards with respect to the protection of personal data are not provided for in a legally binding instrument, the controller or processor shall obtain prior authorisation for the transfer, or a set of transfers, or for provisions to be inserted into administrative arrangements providing the basis for such transfer. Such authorisation by the supervisory authority shall be in accordance with point (a) of Article 34(1). If the transfer is related to processing activities which concern data subjects in another Member State or other Member States, or substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57.*** Authorisations by a supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid***,*** until amended, replaced or repealed by that supervisory authority.	5. Authorisations by a supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid until ***two years after the entry into force of this Regulation unless*** amended, replaced or repealed by that supervisory authority ***before the end of this period***.

Amendment 139

Proposal for a regulation
Article 43

Text proposed by the Commission	*Amendment*
Transfers by way of binding corporate rules	Transfers by way of binding corporate rules
1. ***A*** supervisory authority shall in accordance with the consistency mechanism set out in Article 58 approve binding corporate rules, provided that they:	1. ***The*** supervisory authority shall in accordance with the consistency mechanism set out in Article 58 approve binding corporate rules, provided that they:
(a) are legally binding and apply to and are enforced by every member within the controller's ***or processor's*** group of	(a) are legally binding and apply to and are enforced by every member within the controller's group of undertakings ***and***

undertakings, and include their employees;	***those external subcontractors that are covered by the scope of the binding corporate rules***, and include their employees;
(b) expressly confer enforceable rights on data subjects;	(b) expressly confer enforceable rights on data subjects;
(c) fulfil the requirements laid down in paragraph 2.	(c) fulfil the requirements laid down in paragraph 2.
	1a. With regard to employment data, the representatives of the employees shall be informed about and, in accordance with Union or Member State law and practice, be involved in the drawing-up of binding corporate rules pursuant to Article 43.
2. The binding corporate rules shall at least specify:	2. The binding corporate rules shall at least specify:
(a) the structure and contact details of the group of undertakings and its members;	(a) the structure and contact details of the group of undertakings and its members ***and those external subcontractors that are covered by the scope of the binding corporate rules***;
(b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question;	(b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question;
(c) their legally binding nature, both internally and externally;	(c) their legally binding nature, both internally and externally;
(d) the general data protection principles, in particular purpose limitation, data quality, legal basis for the processing, processing of sensitive personal data; measures to ensure data security; and the requirements for onward transfers to organisations which are not bound by the policies;	(d) the general data protection principles, in particular purpose limitation, ***data minimisation, limited retention periods,*** data quality, ***data protection by design and by default,*** legal basis for the processing, processing of sensitive personal data; measures to ensure data security; and the requirements for onward transfers to organisations which are not bound by the policies;
(e) the rights of data subjects and the means to exercise these rights, including the right not to be subject to a measure based on profiling in accordance with Article 20, the right to lodge a complaint before the competent supervisory authority and before the competent courts of the	(e) the rights of data subjects and the means to exercise these rights, including the right not to be subject to a measure based on profiling in accordance with Article 20, the right to lodge a complaint before the competent supervisory authority and before the competent courts of the

Member States in accordance with Article 75, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules;

(f) the acceptance by the controller ***or processor*** established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member of the group of undertakings not established in the Union; the controller ***or the processor*** may only be exempted from this liability, in whole or in part, if he proves that that member is not responsible for the event giving rise to the damage;

(g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in accordance with Article 11;

(h) the tasks of the data protection officer designated in accordance with Article 35, including monitoring within the group of undertakings the compliance with the binding corporate rules, as well as monitoring the training and complaint handling;

(i) the mechanisms within the group of undertakings aiming at ensuring the verification of compliance with the binding corporate rules;

(j) the mechanisms for reporting and recording changes to the policies and reporting these changes to the supervisory authority;

(k) the co-operation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, in particular by making available to the supervisory authority the results of the verifications of the measures referred to in point (i) of this paragraph.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for binding corporate rules within the meaning of this Article, in particular as regards the

Member States in accordance with Article 75, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules;

(f) the acceptance by the controller established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member of the group of undertakings not established in the Union; the controller may only be exempted from this liability, in whole or in part, if he proves that that member is not responsible for the event giving rise to the damage;

(g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in accordance with Article 11;

(h) the tasks of the data protection officer designated in accordance with Article 35, including monitoring within the group of undertakings the compliance with the binding corporate rules, as well as monitoring the training and complaint handling;

(i) the mechanisms within the group of undertakings aiming at ensuring the verification of compliance with the binding corporate rules;

(j) the mechanisms for reporting and recording changes to the policies and reporting these changes to the supervisory authority;

(k) the co-operation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, in particular by making available to the supervisory authority the results of the verifications of the measures referred to in point (i) of this paragraph.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the ***format, procedures,*** criteria and requirements for binding corporate rules within the meaning of this Article, in

criteria for their approval, the application of points (b), (d), (e) and (f) of paragraph 2 to binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned.	particular as regards the criteria for their approval, ***including transparency for data subjects,*** the application of points (b), (d), (e) and (f) of paragraph 2 to binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned.
4. The Commission may specify the format and procedures for the exchange of information by electronic means between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).	

Amendment 140

Proposal for a regulation
Article 43 a (new)

Text proposed by the Commission	*Amendment*
	Article 43a
	Transfers or disclosures not authorised by Union law
	1. No judgment of a court or tribunal and no decision of an administrative authority of a third country requiring a controller or processor to disclose personal data shall be recognized or be enforceable in any manner, without prejudice to a mutual legal assistance treaty or an international agreement in force between the requesting third country and the Union or a Member State.
	2. Where a judgment of a court or tribunal or a decision of an administrative authority of a third country requests a controller or processor to disclose personal data, the controller or processor and, if any, the controller's representative, shall notify the supervisory authority of the request without undue delay and must obtain prior authorisation for the transfer

or disclosure by the supervisory authority.

3. The supervisory authority shall assess the compliance of the requested disclosure with the Regulation and in particular whether the disclosure is necessary and legally required in accordance with points (d) and (e) of Article 44(1) and Article 44(5). Where data subjects from other Member States are affected, the supervisory authority shall apply the consistency mechanism referred to in Article 57.

4. The supervisory authority shall inform the competent national authority of the request. Without prejudice to Article 21, the controller or processor shall also inform the data subjects of the request and of the authorisation by the supervisory authority and where applicable inform the data subject whether personal data was provided to public authorities during the last consecutive 12-month period, pursuant to point (ha) of Article 14(1).

Amendment 141

Proposal for a regulation
Article 44

Text proposed by the Commission	*Amendment*
Derogations	Derogations
1. In the absence of an adequacy decision pursuant to Article 41 or of appropriate safeguards pursuant to Article 42, a transfer or a set of transfers of personal data to a third country or an international organisation may take place only on condition that:	1. In the absence of an adequacy decision pursuant to Article 41 or of appropriate safeguards pursuant to Article 42, a transfer or a set of transfers of personal data to a third country or an international organisation may take place only on condition that:
(a) the data subject has consented to the proposed transfer, after having been informed of the risks of such transfers due to the absence of an adequacy decision and appropriate safeguards; or	(a) the data subject has consented to the proposed transfer, after having been informed of the risks of such transfers due to the absence of an adequacy decision and appropriate safeguards; or
(b) the transfer is necessary for the performance of a contract between the data subject and the controller or the	(b) the transfer is necessary for the performance of a contract between the data subject and the controller or the

implementation of pre-contractual measures taken at the data subject's request; or	implementation of pre-contractual measures taken at the data subject's request; or
(c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person; or	(c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person; or
(d) the transfer is necessary for important grounds of public interest; or	(d) the transfer is necessary for important grounds of public interest; or
(e) the transfer is necessary for the establishment, exercise or defence of legal claims; or	(e) the transfer is necessary for the establishment, exercise or defence of legal claims; or
(f) the transfer is necessary in order to protect the vital interests of the data subject or of another person, where the data subject is physically or legally incapable of giving consent; or	(f) the transfer is necessary in order to protect the vital interests of the data subject or of another person, where the data subject is physically or legally incapable of giving consent; or
(g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, to the extent that the conditions laid down in Union or Member State law for consultation are fulfilled in the particular case; or	(g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, to the extent that the conditions laid down in Union or Member State law for consultation are fulfilled in the particular case**.**
(h) the transfer is necessary for the purposes of the legitimate interests pursued by the controller or the processor, which cannot be qualified as frequent or massive, and where the controller or processor has assessed all the circumstances surrounding the data transfer operation or the set of data transfer operations and based on this assessment adduced appropriate safeguards with respect to the protection of personal data, where necessary.	
2. A transfer pursuant to point (g) of paragraph 1 shall not involve the entirety of the personal data or entire categories of the personal data contained in the register. When the register is intended for consultation by persons having a legitimate interest, the transfer shall be made only at	2. A transfer pursuant to point (g) of paragraph 1 shall not involve the entirety of the personal data or entire categories of the personal data contained in the register. When the register is intended for consultation by persons having a legitimate interest, the transfer shall be made only at

the request of those persons or if they are to be the recipients.	the request of those persons or if they are to be the recipients.
3. Where the processing is based on point (h) of paragraph 1, the controller or processor shall give particular consideration to the nature of the data, the purpose and duration of the proposed processing operation or operations, as well as the situation in the country of origin, the third country and the country of final destination, and adduced appropriate safeguards with respect to the protection of personal data, where necessary.	
4. Points (b)**,** (c) ***and (h)*** of paragraph 1 shall not apply to activities carried out by public authorities in the exercise of their public powers.	4. Points (b) ***and*** (c) of paragraph 1 shall not apply to activities carried out by public authorities in the exercise of their public powers.
5. The public interest referred to in point (d) of paragraph 1 must be recognised in Union law or in the law of the Member State to which the controller is subject.	5. The public interest referred to in point (d) of paragraph 1 must be recognised in Union law or in the law of the Member State to which the controller is subject.
6. The controller or processor shall document the assessment as well as the appropriate safeguards adduced referred to in point (h) of paragraph 1 of this Article in the documentation referred to in Article 28 and shall inform the supervisory authority of the transfer.	
7. The ***Commission*** shall be ***empowered to adopt delegated acts in accordance with Article 86*** for the purpose of further specifying ***'important grounds of public interest' within the meaning of point (d) of paragraph 1 as well as*** the criteria and requirements for ***appropriate safeguards referred to in point (h)*** of paragraph 1.	7. The ***European Data Protection Board*** shall be ***entrusted with the task of issuing guidelines, recommendations and best practices in accordance with point (b) of Article 66 (1)*** for the purpose of further specifying the criteria and requirements for ***data transfers on the basis*** of paragraph 1.

Amendment 142

Proposal for a regulation
Article 45 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) develop effective international co-operation mechanisms to ***facilitate*** the enforcement of legislation for the	(a) develop effective international co-operation mechanisms to ***ensure*** the enforcement of legislation for the

protection of personal data;	protection of personal data;

Amendment 143

Proposal for a regulation
Article 45 – paragraph 1 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) clarify and consult on jurisdictional conflicts with third countries.

Amendment 144

Proposal for a regulation
Article 45 a (new)

Text proposed by the Commission	*Amendment*
	Article 45a
	Report by the Commission
	The Commission shall submit to the European Parliament and the Council at regular intervals, starting not later than four years after the date referred to in Article 91(1), a report on the application of Articles 40 to 45. For that purpose, the Commission may request information from the Member States and supervisory authorities, which shall be supplied without undue delay. The report shall be made public.

Amendment 145

Proposal for a regulation
Article 47 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The supervisory authority shall act with complete independence in exercising the duties and powers entrusted to it.	1. The supervisory authority shall act with complete independence ***and impartiality*** in exercising the duties and powers entrusted to it***, notwithstanding co-operation and consistency arrangements pursuant to Chapter VII of this Regulation***.

Amendment 146

Proposal for a regulation
Article 47 – paragraph 7 a (new)

Text proposed by the Commission	*Amendment*
	7a. Each Member State shall ensure that the supervisory authority shall be accountable to the national parliament for reasons of budgetary control.

Amendment 147

Proposal for a regulation
Article 50

Text proposed by the Commission	*Amendment*
Professional secrecy	Professional secrecy
The members and the staff of the supervisory authority shall be subject, both during and after their term of office, to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their official duties.	The members and the staff of the supervisory authority shall be subject, both during and after their term of office ***and in conformity with national legislation and practice***, to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their official duties***, whilst conducting their duties with independence and transparency as set out in the Regulation***.

Amendment 148

Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Each supervisory authority shall exercise***, on the territory of its own Member State,*** the powers conferred on it in accordance with this Regulation.	1. Each supervisory authority shall ***be competent to perform the duties and to*** exercise the powers conferred on it in accordance with this Regulation ***on the territory of its own Member State, without prejudice to Articles 73 and 74. Data processing by a public authority shall be supervised only by the supervisory authority of that Member State***.

Amendment 149

Proposal for a regulation
Article 51 – paragraph 2

Text proposed by the Commission	*Amendment*
2. 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, the supervisory authority of the main establishment of the controller or processor shall be competent for the supervision of the processing activities of the controller or the processor in all Member States, without prejudice to the provisions of Chapter VII of this Regulation.	***deleted***

Amendment 150

Proposal for a regulation
Article 52 – paragraph 1 – point b)

Text proposed by the Commission	*Amendment*
(b) hear complaints lodged by any data subject, or by an association ***representing that data subject*** in accordance with Article 73, investigate, to the extent appropriate, the matter and inform the data subject or the association of the progress and the outcome of the complaint within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;	(b) hear complaints lodged by any data subject, or by an association in accordance with Article 73, investigate, to the extent appropriate, the matter and inform the data subject or the association of the progress and the outcome of the complaint within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;

Amendment 151

Proposal for a regulation
Article 52 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) conduct investigations either on its own initiative or on the basis of a complaint or on request of another supervisory authority, and inform the data subject	(d) conduct investigations, either on its own initiative or on the basis of a complaint or ***of specific and documented information received alleging unlawful***

concerned, if the data subject has addressed a complaint to this supervisory authority, of the outcome of the investigations within a reasonable period;	***processing or*** on request of another supervisory authority, and inform the data subject concerned, if the data subject has addressed a complaint to this supervisory authority, of the outcome of the investigations within a reasonable period;

Amendment 152

Proposal for a regulation
Article 52 – paragraph 1 – point j a (new)

Text proposed by the Commission	*Amendment*
	(ja) certify controllers and processors pursuant to Article 39.

Amendment 153

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Each supervisory authority shall promote the awareness of the public on risks, rules, safeguards and rights in relation to the processing of personal data. Activities addressed specifically to children shall receive specific attention.	2. Each supervisory authority shall promote the awareness of the public on risks, rules, safeguards and rights in relation to the processing of personal data ***and on appropriate measures for personal data protection***. Activities addressed specifically to children shall receive specific attention.

Amendment 154

Proposal for a regulation
Article 52 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Each supervisory authority shall together with the European Data Protection Board promote the awareness for controllers and processors on risks, rules, safeguards and rights in relation to the processing of personal data. This includes keeping a register of sanctions and breaches. The register should enrol both all warnings and sanctions as

	detailed as possible and the resolving of breaches. Each supervisory authority shall provide micro, small and medium sized enterprise controllers and processors on request with general information on their responsibilities and obligations in accordance with this Regulation.

Amendment 155

Proposal for a regulation
Article 52 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Where requests are manifestly excessive, in particular due to their repetitive character, the supervisory authority may charge a fee or not take the action requested by the data subject. The supervisory authority shall bear the burden of proving the manifestly excessive character of the request.	6. Where requests are manifestly excessive, in particular due to their repetitive character, the supervisory authority may charge a ***reasonable*** fee or not take the action requested by the data subject. ***Such a fee shall not exceed the costs of taking the action requested.*** The supervisory authority shall bear the burden of proving the manifestly excessive character of the request.

Amendment 156

Proposal for a regulation
Article 53

Text proposed by the Commission	*Amendment*
Powers	Powers
1. Each supervisory authority shall have the power:	1. Each supervisory authority shall***, in line with this Regulation,*** have the power:
(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;	(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 to order the controller to communicate a personal data breach to the data subject***;
(b) to order the controller or the processor to comply with the data subject's requests to exercise the rights provided by this	(b) to order the controller or the processor to comply with the data subject's requests to exercise the rights provided by this

Regulation;	Regulation;
(c) to order the controller and the processor, and, where applicable, the representative to provide any information relevant for the performance of its duties;	(c) to order the controller and the processor, and, where applicable, the representative to provide any information relevant for the performance of its duties;
(d) to ensure the compliance with prior authorisations and prior consultations referred to in Article 34;	(d) to ensure the compliance with prior authorisations and prior consultations referred to in Article 34;
(e) to warn or admonish the controller or the processor;	(e) to warn or admonish the controller or the processor;
(f) to order the rectification, erasure or destruction of all data when they have been processed in breach of the provisions of this Regulation and the notification of such actions to third parties to whom the data have been disclosed;	(f) to order the rectification, erasure or destruction of all data when they have been processed in breach of the provisions of this Regulation and the notification of such actions to third parties to whom the data have been disclosed;
(g) to impose a temporary or definitive ban on processing;	(g) to impose a temporary or definitive ban on processing;
(h) to suspend data flows to a recipient in a third country or to an international organisation;	(h) to suspend data flows to a recipient in a third country or to an international organisation;
(i) to issue opinions on any issue related to the protection of personal data;	(i) to issue opinions on any issue related to the protection of personal data;
	(ia) to certify controllers and processors pursuant to Article 39;
(j) to inform the national parliament, the government or other political institutions as well as the public on any issue related to the protection of personal data.	(j) to inform the national parliament, the government or other political institutions as well as the public on any issue related to the protection of personal data***;***
	(ja) to put in place effective mechanisms to encourage confidential reporting of breaches of this Regulation, taking into account guidance issued by the European Data Protection Board pursuant to Article 66(4b).
2. Each supervisory authority shall have the investigative power to obtain from the controller or the processor;	2. Each supervisory authority shall have the investigative power to obtain from the controller or the processor ***without prior notice***:
(a) access to all personal data and to all information necessary for the performance of its duties;	(a) access to all personal data and to all ***documents and*** information necessary for the performance of its duties;
(b) access to any of its premises, including to any data processing equipment and	(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***.	means.
The powers referred to in point (b) shall be exercised in conformity with Union law and Member State law.	The powers referred to in point (b) shall be exercised in conformity with Union law and Member State law.
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).	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).
4. Each supervisory authority shall have the power to sanction administrative offences, in ***particular those referred to in*** Article 79***(4), (5) and (6)***.	4. Each supervisory authority shall have the power to sanction administrative offences, in ***accordance with*** Article 79. ***This power shall be exercised in an effective, proportionate and dissuasive manner.***

Amendment 157

Proposal for a regulation
Article 54

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

Amendment 158

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 of several Member States are processed, the supervisory authority of the main establishment of the controller or processor shall act as the lead authority responsible for the supervision of the processing activities of the controller or the processor in all Member States, in accordance with the provisions of Chapter VII of this Regulation.

2. The lead supervisory authority shall take appropriate measures for the supervision of the processing activities of the controller or processor for which it is responsible only after consulting all other competent supervisory authorities within the meaning of paragraph 1 of Article 51 in an endeavour to reach a consensus. 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 of Article 51. The lead authority shall take the utmost account of the opinions of the authorities involved. The lead authority shall be the sole authority empowered to decide on measures intended to produce legal effects as regards the processing activities of the controller or processor for which it is responsible.

3. The European Data Protection Board shall, at the request of a competent supervisory authority, issue an opinion on the identification of the lead authority responsible for a controller or processor, in cases where:

(a) it is unclear from the facts of the case where the main establishment of the controller or processor is located; or

(b) the competent authorities do not agree on which supervisory authority shall act as lead authority; or

(c) the controller is not established in the Union, and residents of different Member States are affected by processing

	operations within the scope of this Regulation.
	3a. Where the controller exercises also activities as a processor, the supervisory authority of the main establishment of the controller shall act as lead authority for the supervision of processing activities.
	4. The European Data Protection Board may decide on the identification of the lead authority.

(Paragraph 1 in Parliament's amendment is based on Article 51(2) of the Commission proposal).

Amendment 159

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission	*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.	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 investigations*** 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.***

Amendment 160

Proposal for a regulation
Article 55 – paragraph 7

Text proposed by the Commission	*Amendment*
7. No fee shall be charged for any action taken following a request for mutual assistance.	7. No fee shall be charged ***to the requesting supervisory authority*** for any action taken following a request for mutual assistance.

Amendment 161

Proposal for a regulation
Article 55 – paragraph 8

Text proposed by the Commission	*Amendment*
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.	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. ***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***.

Amendment 162

Proposal for a regulation
Article 55 – paragraph 9

Text proposed by the Commission	*Amendment*
9. The supervisory authority shall specify the period of validity of such provisional measure. This period shall not exceed three months. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.	9. The supervisory authority shall specify the period of validity of such provisional measure. This period shall not exceed three months. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission ***in accordance with the procedure referred to in Article 57***.

Amendment 163

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).***	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.

Amendment 164

Proposal for a regulation
Article 56 –paragraph 2

Text proposed by the Commission	*Amendment*
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.	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 ***involve*** the supervisory authority of each of those Member States 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.***

Amendment 165

Proposal for a regulation
Article 57

Text proposed by the Commission	*Amendment*
Consistency mechanism	Consistency mechanism
For the purposes set out in Article 46(1), the supervisory authorities shall co-operate with each other and the Commission through the consistency mechanism ***as set out*** in this section.	For the purposes set out in Article 46(1), the supervisory authorities shall co-operate with each other and the Commission through the consistency mechanism ***both on matters of general scope and in individual cases in accordance with the provisions of*** this section.

Amendment 166

Proposal for a regulation
Article 58

Text proposed by the Commission	*Amendment*
Opinion by the European Data Protection Board	***Consistency on matters of general application***
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.	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.
2. The obligation set out in paragraph 1 shall apply to a measure intended to produce legal effects and which:	2. The obligation set out in paragraph 1 shall apply to a measure intended to produce legal effects and which:
(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	
(b) may substantially affect the free movement of personal data within the Union; or	
(c) aims at adopting a list of the processing operations subject to prior consultation pursuant to Article 34(5); or	
(d) aims to determine standard data protection clauses referred to in point (c) of Article 42(2); or	(d) aims to determine standard data protection clauses referred to in point (c) of Article 42(2); or

(e) aims to authorise contractual clauses referred to in point (d) of Article 42(2); or	(e) aims to authorise contractual clauses referred to in point (d) of Article 42(2); or
(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 43.
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.	3. Any supervisory authority or the European Data Protection Board may request that any matter ***of general application*** 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.
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.	4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter ***of general application*** shall be dealt with in the consistency mechanism.
5. Supervisory authorities and the Commission shall electronically communicate any relevant information, including as the case may be a summary of the facts, the draft measure, and the grounds which make the enactment of such measure necessary, using a standardised format.	5. Supervisory authorities and the Commission shall ***without undue delay*** electronically communicate any relevant information, including as the case may be a summary of the facts, the draft measure, and the grounds which make the enactment of such measure necessary, using a standardised format.
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 information, where necessary.	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 ***secretariat*** of the European Data Protection Board shall provide translations of relevant information, where necessary.
	6a. The European Data Protection Board shall adopt an opinion on matters referred to it under paragraph 2.
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***	7. The European Data Protection Board ***may decide by simple majority whether to adopt*** an opinion on ***any*** matter ***submitted under paragraphs 3 and 4 taking into account :***

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.	
	(a) whether the matter presents elements of novelty, taking account of legal or factual developments, in particular in information technology and in the light of the state of progress in the information society; and
	(b) whether the European Data Protection Board has already issued an opinion on the same matter.
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.***	8. ***The European Data Protection Board shall adopt opinions pursuant to paragraphs 6a and 7 by a simple majority of its members. These opinions shall be made public.***

Amendement 167

Proposition de règlement
Article 58 a (new)

Texte proposé par la Commission	*Amendement*
	Article 58a

Consistency in individual cases

1. Before taking a measure intended to produce legal effects within the meaning of Article 54a, the lead authority shall share all relevant information and submit the draft measure to all other competent authorities. The lead authority shall not adopt the measure if a competent authority has, within a period of three weeks, indicated it has serious objections to the measure.

2. Where a competent authority has indicated that it has serious objections to a draft measure of the lead authority, or where the lead authority does not submit a draft measure referred to in paragraph 1 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, the issue shall be considered by the European Data Protection Board.

3. The lead authority and/or other competent authorities involved and the Commission shall without undue delay electronically communicate to the European Data Protection Board using a standardised format any relevant information, including as the case may be a summary of the facts, the draft measure, the grounds which make the enactment of such measure necessary, the objections raised against it and the views of other supervisory authorities concerned.

4. The European Data Protection Board shall consider the issue, taking into account the impact of the draft measure of the lead authority on the fundamental rights and freedoms of data subjects, and shall decide by simple majority of its members whether to issue an opinion on the matter within two weeks after the relevant information has been provided pursuant to paragraph 3.

5. In case the European Data Protection Board decides to issue an opinion, it shall do so within six weeks and make the

opinion public.

6. The lead authority shall take utmost 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. Where the lead authority intends not to follow the opinion of the European Data Protection Board, it shall provide a reasoned justification.

7. In case the European Data Protection Board still objects to the measure of the supervisory authority as referred to in paragraph 5, it may within one month adopt by a two thirds majority a measure which shall be binding upon the supervisory authority

Amendment 168

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.

Amendment 169

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.

Amendment 170

Proposal for a regulation
Article 60 a (new)

Text proposed by the Commission	*Amendment*
	Article 60a
	Notification of the European Parliament and the Council
	The Commission shall notify the European Parliament and the Council 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 mechanism, 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.

Amendment 171

Proposal for a regulation
Article 61 – paragraph 1

Text proposed by 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	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 ***58a***, 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.	supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

Amendment 172

Proposal for a regulation
Article 61 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***By derogation from Article 58(7),*** an urgent opinion referred to in paragraphs 2 and 3 of this Article shall be adopted within two weeks by simple majority of the members of the European Data Protection Board.	4. An urgent opinion referred to in paragraphs 2 and 3 of this Article shall be adopted within two weeks by simple majority of the members of the European Data Protection Board.

Amendment 173

Proposal for a regulation
Article 62

Text proposed by the Commission	*Amendment*
Implementing acts	Implementing acts
1.The Commission may adopt implementing acts for:	1. The Commission may adopt implementing acts ***of general application***, ***after requesting an opinion of the European Data Protection Board,*** for:
(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;	
(b) deciding***, within the period referred to in Article 59(1),*** whether it declares draft standard data protection clauses referred to	(b) deciding whether it declares draft standard data protection clauses referred to in point (d) of Article ***42*** (2), as having

in point (d) of Article ***58***(2), as having general validity;	general validity;
(c) specifying the format and procedures for the application of the consistency mechanism referred to in this section;	
(d) specifying 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 Article 58(5), (6) and (8).	(d) specifying 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 Article 58(5), (6) and (8).
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	
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.	
3. The absence or adoption of a measure under this Section does not prejudice any other measure by the Commission under the Treaties.	3. The absence or adoption of a measure under this Section does not prejudice any other measure by the Commission under the Treaties.

Amendment 174

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.	2. Where a supervisory authority does not submit a draft measure to the consistency mechanism in breach of Article 58(1) ***and (2) or adopts a measure despite an indication of serious objection pursuant to Article 58a(1)***, the measure of the supervisory authority shall not be legally valid and enforceable.

Amendment 175

Proposal for a regulation
Article 66

Text proposed by the Commission	*Amendment*
Tasks of the European Data Protection Board	Tasks of the European Data Protection Board
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:	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 or*** Commission, in particular:
(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;	(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;
(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;	(b) examine, on its own initiative or on request of one of its members or on request of the ***European Parliament, Council or*** 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***;
(c) review the practical application of the guidelines, recommendations and best practices referred to in point (b) and report regularly to the Commission on these;	(c) review the practical application of the guidelines, recommendations and best practices referred to in point (b) and report regularly to the Commission on these;
(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57;	(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57;
	(da) provide an opinion on which authority should be the lead authority pursuant to Article 54a(3);
(e) promote the co-operation and the effective bilateral and multilateral exchange of information and practices between the supervisory authorities;	(e) promote the co-operation and the effective bilateral and multilateral exchange of information and practices between the supervisory authorities***, including the coordination of joint***

	operations and other joint activities, where it so decides at the request of one or several supervisory authorities;
(f) promote common training programmes and facilitate personnel exchanges between the supervisory authorities, as well as, where appropriate, with the supervisory authorities of third countries or of international organisations;	(f) promote common training programmes and facilitate personnel exchanges between the supervisory authorities, as well as, where appropriate, with the supervisory authorities of third countries or of international organisations;
(g) promote the exchange of knowledge and documentation on data protection legislation and practice with data protection supervisory authorities worldwide.	(g) promote the exchange of knowledge and documentation on data protection legislation and practice with data protection supervisory authorities worldwide.
	(ga) give its opinion to the Commission in the preparation of delegated and implementing acts based on this Regulation;
	(gb) give its opinion on codes of conduct drawn up at Union level pursuant to Article 38(4);
	(gc) give its opinion on criteria and requirements for the data protection certification mechanisms pursuant to Article 39(3).
	(gd) maintain a public electronic register on valid and invalid certificates pursuant to Article 39(1h);
	(ge) provide assistance to national supervisory authorities, at their request;
	(gf) establish and make public a list of the processing operations which are subject to prior consultation pursuant to Article 34;
	(gg) maintain a registry of sanctions imposed on controllers or processors by the competent supervisory authorities.
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, Council or*** 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.
3. The European Data Protection Board shall forward its opinions, guidelines,	3. The European Data Protection Board shall forward its opinions, guidelines,

recommendations, and best practices to the Commission and to the committee referred to in Article 87 and make them public.	recommendations, and best practices to the ***European Parliament, Council and*** Commission and to the committee referred to in Article 87 and make them public.
4. The Commission shall inform the European Data Protection Board of the action it has taken following the opinions, guidelines, recommendations and best practices issued by the European Data Protection Board.	4. The Commission shall inform the European Data Protection Board of the action it has taken following the opinions, guidelines, recommendations and best practices issued by the European Data Protection Board.
	4a. The European Data Protection Board shall, where appropriate, 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.
	4b. The European Data Protection Board shall be entrusted with the task of issuing guidelines, recommendations and best practices in accordance with point (b) of paragraph 1 for establishing common procedures for receiving and investigating information concerning allegations of unlawful processing and for safeguarding confidentiality and sources of information received.

Amendment 176

Proposal for a regulation
Article 67 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The European Data Protection Board shall regularly and timely inform the Commission about the outcome of its activities. It shall draw up ***an annual*** report on the situation regarding the protection of natural persons with regard to the processing of personal data in the Union and in third countries.	1. The European Data Protection Board shall regularly and timely inform the ***European Parliament, Council and the*** Commission about the outcome of its activities. It shall draw up ***a*** report ***at least every two years*** on the situation regarding the protection of natural persons with regard to the processing of personal data in the Union and in third countries.
The report shall include the review of the practical application of the guidelines, recommendations and best practices	The report shall include the review of the practical application of the guidelines, recommendations and best practices

referred to in point (c) of Article 66(1).	referred to in point (c) of Article 66(1).

Amendment 177

Proposal for a regulation
Article 68 – paragraph 1

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

Amendment 178

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 ***at least*** two deputy chairpersons from amongst its members.

Amendment 179

Proposal for a regulation
Article 69 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. The position of the chair shall be a full-time position.

Amendment 180

Proposal for a regulation
Article 71 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The secretariat shall provide analytical, administrative and logistical support to the European Data Protection Board under the	2. The secretariat shall provide analytical, ***legal,*** administrative and logistical support to the European Data Protection Board

direction of the chair.	under the direction of the chair.

Amendment 181

Proposal for a regulation
Article 72 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The discussions of the European Data Protection Board ***shall*** be confidential.	1. The discussions of the European Data Protection Board ***may*** be confidential ***where necessary, unless otherwise provided in its rules of procedure***. ***The agendas of the meetings of the European Protection Board shall be made public***.

Amendment 182

Proposal for a regulation
Article 73

Text proposed by the Commission	*Amendment*
Right to lodge a complaint with a supervisory authority	Right to lodge a complaint with a supervisory authority
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.	1. Without prejudice to any other administrative or judicial remedy ***and the consistency mechanism***, 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.
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.	2. Any body, organisation or association which ***acts in the public interest*** 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.
3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall	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.	have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that breach ***of this Regulation*** has occurred.

Amendment 183

Proposal for a regulation
Article 74

Text proposed by the Commission	*Amendment*
Right to a judicial remedy against a supervisory authority	Right to a judicial remedy against a supervisory authority
1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.	1. ***Without prejudice to any other administrative or non-judicial remedy,*** each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.
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).	2. ***Without prejudice to any other administrative or non-judicial remedy,*** 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).
3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.	3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.
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.	4. ***Without prejudice to the consistency mechanism*** 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.
5. The Member States shall enforce final decisions by the courts referred to in this	5. The Member States shall enforce final decisions by the courts referred to in this

Article.	Article.

Amendment 184

Proposal for a regulation
Article 75 – paragraph 2

Text proposed by the Commission	*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.	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 ***of the Union or a Member State*** acting in the exercise of its public powers.

Amendment 185

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***,*** 75 ***and 77 if mandated by*** one or more data subjects.

Amendment 186

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission	*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.	1. Any person who has suffered damage***, including non-pecuniary damage,*** as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to ***claim*** compensation from the controller or the processor for the damage suffered.

Amendment 187

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission	*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.	2. Where more than one controller or processor is involved in the processing, each ***of those controllers*** or ***processors*** shall be jointly and severally liable for the entire amount of the damage, ***unless they have an appropriate written agreement determining the responsibilities pursuant to Article 24***.

Amendment 188

Proposal for a regulation
Article 79

Text proposed by the Commission	*Amendment*
Administrative sanctions	Administrative sanctions
1.Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	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.***
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.***	2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.
	2a. 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 in cases of first and non-intentional non-compliance;

b) regular periodic data protection audits;

c) a fine up to 100 000 000 EUR or up to 5% of the annual worldwide turnover in case of an enterprise, whichever is higher.

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

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

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

b) the intentional or negligent character of the infringement,

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

d) the repetitive nature of the infringement,

e) the degree of co-operation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement,

f) the specific categories of personal data affected by the infringement,

(g) the level of damage, including non-pecuniary damage, suffered by the data subjects,

(h) the action taken by the controller or processor to mitigate the damage suffered by data subjects,

(i) any financial benefits intended or gained, or losses avoided, directly or indirectly from the infringement,

(j) the degree of technical and organisational measures and procedures

implemented pursuant to:

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

(ii) Article 30 - Security of processing

(iii) Article 33 - Data protection impact assessment

(iv) Article 33 a - Data protection compliance review

(v) Article 35 - Designation of the data protection officer

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

(l) other aggravating or mitigating factors applicable to the circumstance of the case.

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.

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).

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 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.

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 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.

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 delegated acts in accordance with Article 86 for the purpose of updating the ***absolute*** amounts of the administrative fines referred to in ***paragraph 2a*** , taking into account the criteria ***and factors*** referred to in ***paragraphs*** 2 ***and 2c***.

Amendment 189

Proposal for a regulation
Article 80 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall provide for exemptions or derogations from the provisions on the general principles in Chapter II, the rights of the data subject in Chapter III, on controller and processor in Chapter IV, on the transfer of personal data to third countries and international organisations in Chapter V, the independent supervisory authorities in Chapter VI ***and*** on co-operation and consistency in Chapter VII ***for the processing of personal data carried out solely for journalistic purposes or the purpose of artistic or literary expression*** in order to reconcile the right to the protection of personal data with the rules governing freedom of expression.	1. Member States shall provide for exemptions or derogations from the provisions on the general principles in Chapter II, the rights of the data subject in Chapter III, on controller and processor in Chapter IV, on the transfer of personal data to third countries and international organisations in Chapter V, the independent supervisory authorities in Chapter VI***,*** on co-operation and consistency in Chapter VII ***and specific data processing situations in Chapter IX whenever this is necessary*** in order to reconcile the right to the protection of personal data with the rules governing freedom of expression ***in accordance with the Charter of Fundamental Rights of the European Union***.

Amendment 190

Proposal for a regulation
Article 80 a (new)

Text proposed by the Commission	*Amendment*
	Article 80a
	Access to documents
	1. Personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Union or Member State legislation regarding public access to official documents, which reconciles the right to the protection of personal data with the principle of public access to official documents.
	2. Each Member State shall notify to the Commission provisions of its law which it adopts pursuant to paragraph 1 by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

Amendment 191

Proposal for a regulation
Article 81

Text proposed by the Commission	*Amendment*
Processing of personal data concerning health	Processing of personal data concerning health
1. ***Within the limits of*** this Regulation ***and in accordance*** with point (h) of Article 9(2), processing of personal data concerning health must be on the basis of Union law or Member State law which shall provide for suitable and specific measures to safeguard the data subject's ***legitimate*** interests, and be necessary for:	1. ***In accordance with the rules set out in*** this Regulation***, in particular*** with point (h) of Article 9(2), processing of personal data concerning health must be on the basis of Union law or Member State law which shall provide for suitable***, consistent,*** and specific measures to safeguard the data subject's interests ***and fundamental rights, to the extent that these are*** necessary ***and proportionate***, ***and of which the effects shall be foreseeable by the data subject,*** for:
(a) the purposes of preventive or occupational medicine, medical diagnosis,	(a) the purposes of preventive or occupational medicine, medical diagnosis,

the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject to the obligation of professional secrecy or another person also subject to an equivalent obligation of confidentiality under Member State law or rules established by national competent bodies; or	the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject to the obligation of professional secrecy or another person also subject to an equivalent obligation of confidentiality under Member State law or rules established by national competent bodies; or
(b) reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety, inter alia for medicinal products or medical devices; or	(b) reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety, inter alia for medicinal products or medical devices, ***and if the processing is carried out by a person bound by a confidentiality obligation;*** or
(c) other reasons of public interest in areas such as social protection, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system.	(c) other reasons of public interest in areas such as social protection, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system ***and the provision of health services. Such processing of personal data concerning health for reasons of public interest shall not result in data being processed for other purposes, unless with the consent of the data subject or on the basis of Union or Member State law.***
	1a. When the purposes referred to in points (a) to (c) of paragraph 1 can be achieved without the use of personal data, such data shall not be used for those purposes, unless based on the consent of the data subject or Member State law.
	1b. Where the data subject's consent is required for the processing of medical data exclusively for public health purposes of scientific research, the consent may be given for one or more specific and similar researches. However, the data subject may withdraw the consent at any time.
	1c. For the purpose of consenting to the participation in scientific research activities in clinical trials, the relevant provisions of Directive 2001/20/EC of the

	European Parliament and of the Council[48c] shall apply.
2. Processing of personal data concerning health which is necessary for historical, statistical or scientific research purposes***, such as patient registries set up for improving diagnoses and differentiating between similar types of diseases and preparing studies for therapies, is*** subject to the conditions and safeguards referred to in Article 83.	2. Processing of personal data concerning health which is necessary for historical, statistical or scientific research purposes ***shall be permitted only with the consent of the data subject, and shall be*** subject to the conditions and safeguards referred to in Article 83.
	2a. Member States law may provide for exceptions to the requirement of consent for research, as referred to in paragraph 2, with regard to research that serves a high public interest, if that research cannot possibly be carried out otherwise. The data in question shall be anonymised, or if that is not possible for the research purposes, pseudonymised under the highest technical standards, and all necessary measures shall be taken to prevent unwarranted re-identification of the data subjects. However, the data subject shall have the right to object at any time in accordance with Article 19.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying ***other reasons of*** public interest in the area of public health as referred to in point (b) of paragraph 1***, as well as criteria and requirements for the safeguards for the processing of personal data for the purposes referred to in paragraph 1***.	3. The Commission shall be empowered to adopt, ***after requesting an opinion of the European Data Protection Board,*** delegated acts in accordance with Article 86 for the purpose of further specifying public interest in the area of public health as referred to in point (b) of paragraph 1 ***and high public interest in the area of research as referred to in paragraph 2a.***
	3a. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.
	[48c] Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the

	implementation of good clinical practices in the conduct of clinical trials on medicinal products for human use (OJ L 121, 1.5.2001, p. 34).

Amendment 192

Proposal for a regulation
Article 82

Text proposed by the Commission	*Amendment*
Processing in the employment context	***Minimum standards for*** processing ***data*** in the employment context
1. ***Within the limits of this Regulation***, Member States may adopt by ***law*** specific rules regulating the processing of employees' personal data in the employment context, in particular ***for*** the purposes of the recruitment, the performance of the contract of employment, including discharge of obligations laid down by law ***or*** by collective agreements, management, planning and organisation of work, health and safety at work, and for the purposes of the exercise and enjoyment, on an individual or collective basis, of rights and benefits related to employment, and for the purpose of the termination of the employment relationship.	1. Member States may***, in accordance with the rules set out in this Regulation, and taking into account the principle of proportionality,*** adopt by ***legal provisions*** specific rules regulating the processing of employees' personal data in the employment context, in particular ***but not limited to*** the purposes of the recruitment ***and job applications within the group of undertakings***, the performance of the contract of employment, including discharge of obligations, laid down by law ***and*** by collective agreements, ***in accordance with national law and practice,*** management, planning and organisation of work, health and safety at work, and for the purposes of the exercise and enjoyment, on an individual or collective basis, of rights and benefits related to employment, and for the purpose of the termination of the employment relationship. ***Member States may allow for collective agreements to further specify the provisions set out in this Article.***
	1a. The purpose of processing such data must be linked to the reason it was collected for and stay within the context of employment. Profiling or use for secondary purposes shall not be allowed.
	1b. Consent of an employee shall not provide a legal basis for the processing of data by the employer when the consent has not been given freely.
	1c. Notwithstanding the other provisions

of this Regulation, the legal provisions of Member States referred to in paragraph 1 shall include at least the following minimum standards:

(a) the processing of employee data without the employees' knowledge shall not be permitted. Notwithstanding the first sentence, Member States may, by law, provide for the admissibility of this practice, by setting appropriate deadlines for the deletion of data, providing there exists a suspicion based on factual indications that must be documented that the employee has committed a crime or serious dereliction of duty in the employment context, providing also the collection of data is necessary to clarify the matter and providing finally the nature and extent of this data collection are necessary and proportionate to the purpose for which it is intended. The privacy and private lives of employees shall be protected at all times. The investigation shall be carried out by the competent authority;

(b) the open optical-electronic and/or open acoustic-electronic monitoring of parts of an undertaking which are not accessible to the public and are used primarily by employees for private activities, especially in bathrooms, changing rooms, rest areas, and bedrooms, shall be prohibited. Clandestine surveillance shall be inadmissible under all circumstances;

(c) where undertakings or authorities collect and process personal data in the context of medical examinations and/or aptitude tests, they must explain to the applicant or employee beforehand the purpose for which these data are being used, and ensure that afterwards they are provided with these data together with the results, and that they receive an explanation of their significance on request. Data collection for the purpose of genetic testing and analyses shall be prohibited as a matter of principle;

(d) whether and to what extent the use of telephone, e-mail, internet and other telecommunications services shall also be permitted for private use may be regulated by collective agreement. Where there is no regulation by collective agreement, the employer shall reach an agreement on this matter directly with the employee. In so far as private use is permitted, the processing of accumulated traffic data shall be permitted in particular to ensure data security, to ensure the proper operation of telecommunications networks and telecommunications services and for billing purposes.

Notwithstanding the third sentence, Member States may, by law, provide for the admissibility of this practice, by setting appropriate deadlines for the deletion of data, providing there exists a suspicion based on factual indications that must be documented that the employee has committed a crime or serious dereliction of duty in the employment context, providing also the collection of data is necessary to clarify the matter and providing finally the nature and extent of this data collection are necessary and proportionate to the purpose for which it is intended. The privacy and private lives of employees shall be protected at all times. The investigation shall be carried out by the competent authority;

(e) workers' personal data, especially sensitive data such as political orientation and membership of and activities in trade unions, may under no circumstances be used to put workers on so-called 'blacklists', and to vet or bar them from future employment. The processing, the use in the employment context, the drawing-up and passing-on of blacklists of employees or other forms of discrimination shall be prohibited. Member States shall conduct checks and adopt adequate sanctions in accordance with Article 79(6) to ensure effective implementation of this point.

	1d. Transmission and processing of personal employee data between legally independent undertakings within a group of undertakings and with professionals providing legal and tax advice shall be permitted, providing it is relevant to the operation of the business and is used for the conduct of specific operations or administrative procedures and is not contrary to the interests and fundamental rights of the person concerned which are worthy of protection. Where employee data are transmitted to a third country and/or to an international organization, Chapter V shall apply.
2. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to ***paragraph*** 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.	2. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to ***paragraphs 1 and 1b***, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the safeguards for the processing of personal data for the purposes referred to in paragraph 1.	3. The Commission shall be empowered, ***after requesting an opinion from the European Data Protection Board,*** to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the safeguards for the processing of personal data for the purposes referred to in paragraph 1.

Amendment 193

Proposal for a regulation
Article 82 a (new)

Text proposed by the Commission	*Amendment*
	Article 82a
	Processing in the social security context
	1. Member States may, in accordance with the rules set out in this Regulation, adopt specific legislative rules particularising the conditions for the processing of personal data by their public institutions and departments in the social security context if carried out in the public interest.

	2. Each Member State shall notify to the Commission those provisions which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

Amendment 194

Proposal for a regulation
Article 83

Text proposed by the Commission	*Amendment*
Processing for historical, statistical and scientific research purposes	Processing for historical, statistical and scientific research purposes
1. ***Within the limits of*** this Regulation, personal data may be processed for historical, statistical or scientific research purposes only if:	1. ***In accordance with the rules set out in*** this Regulation, personal data may be processed for historical, statistical or scientific research purposes only if:
(a) these purposes cannot be otherwise fulfilled by processing data which does not permit or not any longer permit the identification of the data subject;	(a) these purposes cannot be otherwise fulfilled by processing data which does not permit or not any longer permit the identification of the data subject;
(b) data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information ***as long as these purposes can be fulfilled in this manner***.	(b) data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information ***under the highest technical standards, and all necessary measures are taken to prevent unwarranted re-identification of the data subjects.***
2. Bodies conducting historical, statistical or scientific research may publish or otherwise publicly disclose personal data only if:	
(a) the data subject has given consent, subject to the conditions laid down in Article 7;	
(b) the publication of personal data is necessary to present research findings or to facilitate research insofar as the interests or the fundamental rights or freedoms of the data subject do not override these interests; or	
(c) the data subject has made the data	

public.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the processing of personal data for the purposes referred to in paragraph 1 and 2 as well as any necessary limitations on the rights of information to and access by the data subject and detailing the conditions and safeguards for the rights of the data subject under these circumstances.

Amendment 195

Proposal for a regulation
Article 83 a (new)

Text proposed by the Commission	*Amendment*
	Article 83a
	Processing of personal data by archive services
	1. Once the initial processing for which they were collected has been completed, personal data may be processed by archive services whose main or mandatory task is to collect, conserve, provide information about, exploit and disseminate archives in the public interest, in particular in order to substantiate individuals' rights or for historical, statistical or scientific research purposes. These tasks shall be carried out in accordance with the rules laid down by Member States concerning access to and the release and dissemination of administrative or archive documents and in accordance with the rules set out in this Regulation, specifically with regard to consent and the right to object.
	2. Each Member State shall notify to the Commission provisions of its law which it adopts pursuant to paragraph 1 by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

Amendment 196

Proposal for a regulation
Article 84 – paragraph 1

Text proposed by the Commission	*Amendment*
1. ***Within the limits of*** this Regulation, Member States ***may adop***t specific rules ***to set*** out the ***investigative*** powers by the supervisory authorities laid down in Article 53***(2)*** in relation to controllers or processors that are subjects under national law or rules established by national competent bodies to an obligation of professional secrecy or other equivalent obligations of secrecy, where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy. These rules shall only apply with regard to personal data which the controller or processor has received from or has obtained in an activity covered by this obligation of secrecy.	1. ***In accordance with the rules set out in*** this Regulation, Member States, ***shall ensure that*** specific rules ***are in place setting*** out the powers by the supervisory authorities laid down in Article 53 in relation to controllers or processors that are subjects under national law or rules established by national competent bodies to an obligation of professional secrecy or other equivalent obligations of secrecy, where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy.These rules shall only apply with regard to personal data which the controller or processor has received from or has obtained in an activity covered by this obligation of secrecy.

Amendment 197

Proposal for a regulation
Article 85

Text proposed by the Commission	*Amendment*
Existing data protection rules of churches and religious associations	Existing data protection rules of churches and religious associations
1. Where in a Member State, churches and religious associations or communities apply, at the time of entry into force of this Regulation, ***comprehensive*** rules relating to the protection of individuals with regard to the processing of personal data, such rules may continue to apply, provided that they are brought in line with the provisions of this Regulation.	1. Where in a Member State, churches and religious associations or communities apply, at the time of entry into force of this Regulation, ***adequate*** rules relating to the protection of individuals with regard to the processing of personal data, such rules may continue to apply, provided that they are brought in line with the provisions of this Regulation.
2. Churches and religious associations which apply ***comprehensive*** rules in accordance with paragraph 1 shall ***provide for the establishment of an independent supervisory authority in accordance with***	2. Churches and religious associations which apply ***adequate*** rules in accordance with paragraph 1 shall ***obtain a compliance opinion pursuant to Article 38***.

Chapter VI of this Regulation.

Amendment 198

Proposal for a regulation
Article 85 a (new)

Text proposed by the Commission	*Amendment*
	Article 85a
	Respect of fundamental rights
	This Regulation shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the TEU.

Amendment 199

Proposal for a regulation
Article 85 b (new)

Text proposed by the Commission	*Amendment*
	Article 85b
	Standard Forms
	1. The Commission may, taking into account the specific features and necessities of various sectors and data processing situations, lay down standard forms for:
	(a) specific methods to obtain verifiable consent referred to in Article 8(1),
	(b) the communication referred to in Article 12(2), including the electronic format,
	(c) providing the information referred to in paragraphs 1 to 3 of Article 14,
	(d) requesting and granting access to the information referred to in Article 15(1), including for communicating the personal data to the data subject,
	(e) documentation referred to in paragraph 1 of Article 28,
	(f) breach notifications pursuant to

	Article 31 to the supervisory authority and the documentation referred to in Article 31(4),
	(g) prior consultations referred to in Article 34, and for informing the supervisory authorities pursuant to Article 34(6).
	2. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises.
	3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 200

Proposal for a regulation
Article 86 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The ***delegation of power*** referred to in ***Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3),*** Article 17(9), ***Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 336), Article 34(8), Article 35(11), Article 37(2),*** Article 39(2), Article 43(3), ***Article 44(7),*** Article 79(***6***), Article 81(3)***,*** Article 82(3) ***and Article 83(3)*** shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.	2. The ***power to adopt delegated acts*** referred to in ***Article 13a(5),*** Article 17(9), ***Article 38(4),*** Article 39(2)***, Article 41(3), Article 41(5),*** Article 43(3), Article 79(*7*), Article 81(3) ***and*** Article 82(3) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

Amendment 201

Proposal for a regulation
Article 86 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The delegation of power referred to in ***Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3),*** Article 17(9), ***Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5),***	3. The delegation of power referred to in ***Article 13a(5),*** Article 17(9), ***Article 38(4),*** Article 39(2), ***Article 41(3), Article 41(5),*** Article 43(3), Article 79(*7*), Article 81(3) ***and*** Article 82(3) may be revoked at any

Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), ***Article 44(7),*** Article 79(***6***), Article 81(3)***,*** Article 82(3) ***and Article 83(3)*** may be revoked at any time by the European Parliament or by the Council. A decision ***of revocation*** shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

time by the European Parliament or by the Council. A decision ***to revoke*** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 202

Proposal for a regulation
Article 86 – paragraph 5

Text proposed by the Commission	*Amendment*
5. A delegated act adopted pursuant to ***Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3),*** Article 17(9), ***Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2),*** Article 39(2), Article 43(3), ***Article 44(7),*** Article 79(***6***), Article 81(3)***,*** Article 82(3) ***and Article 83(3)*** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***two*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.	5. A delegated act adopted pursuant to ***Article 13a(5),*** Article 17(9), ***Article 38(4),*** Article 39(2), ***Article 41(3), Article 41(5),*** Article 43(3), Article 79(***7***), Article 81(3) ***and*** Article 82(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***six*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ***six*** months at the initiative of the European Parliament or ***of*** the Council.

Amendment 203

Proposal for a regulation
Article 87 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.	***deleted***

Amendment 204

Proposal for a regulation
Article 89 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***Article*** 1(2) of Directive 2002/58/EC shall be deleted.	2. ***Articles*** 1(2)***, 4 and 15*** of Directive 2002/58/EC shall be deleted.

Amendment 205

Proposal for a regulation
Article 89 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. The Commission shall present, without delay and by the date referred to in Article 91(2) at the latest, a proposal for the revision of the legal framework for the processing of personal data and the protection of privacy in electronic communications, in order to align the law with this Regulation and ensure consistent and uniform legal provisions on the fundamental right to protection of personal data in the European Union.

Amendment 206

Proposal for a regulation
Article 89 a (new)

Text proposed by the Commission	*Amendment*
	Article 89a

Relationship to and amendment of Regulation (EC) No 45/2001

1. The rules set out in this Regulation shall apply to the processing of personal data by Union institutions, bodies, offices and agencies in relation to matters for which they are not subject to additional rules set out in Regulation (EC) No 45/2001.

2. The Commission shall present, without delay and by the date specified in Article 91(2) at the latest, a proposal for the revision of the legal framework applicable to the processing of personal data by the Union institutions, bodies, offices and agencies.

Amendment 207

Proposal for a regulation
Annex (new)

Amendment

Annex - Presentation of the particulars referred to in Article 13a

1) Having regard to the proportions referred to in point 6, particulars shall be provided as follows:

ICON	ESSENTIAL INFORMATION	FULFILLED
	No personal data are **collected** beyond the minimum necessary for each specific purpose of the processing	
	No personal data are **retained** beyond the minimum necessary for each specific purpose of the processing	
	No personal data are **processed** for purposes other than the purposes for which they were collected	
	No personal data are **disseminated** to commercial third parties	
	No personal data are **sold or rented out**	
	No personal data are retained in **unencrypted** form	

COMPLIANCE WITH ROWS 1-3 IS REQUIRED BY EU LAW

2) The following words in the rows in the second column of the table in point 1, entitled "ESSENTIAL INFORMATION", shall be formatted as bold:

a) the word "collected" in the first row of the second column;

b) the word "retained" in the second row of the second column;

c) the word "processed" in the third row of the second column;

d) the word "disseminated" in the fourth row of the second column;

e) the word "sold and rented out" in the fifth row of the second column;

f) the word "unencrypted" in the sixth row of the second column.

3) Having regard to the proportions referred to in point 6, the rows in the third column of the table in point 1, entitled "FULFILLED", shall be completed with one of the following two graphical forms in accordance with the conditions laid down under point 4:

a)



b)



4)

a) If no personal data are collected beyond the minimum necessary for each specific purpose of the processing, the first row of the third column of the table in point 1 shall entail the graphical form referred to in point 3a.

b) If personal data are collected beyond the minimum necessary for each specific purpose of the processing, the first row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

c) If no personal data are retained beyond the minimum necessary for each specific purpose of the processing, the second row of the third column of the table in point 1 shall entail the

graphical form referred to in point 3a.

d) If personal data are retained beyond the minimum necessary for each specific purpose of the processing, the second row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

e) If no personal data are processed for purposes other than the purposes for which they were collected, the third row of the third column of the table in point 1 shall entail the graphical form referred to in point 3a.

f) If personal data are processed for purposes other than the purposes for which they were collected, the third row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

g) If no personal data are disseminated to commercial third parties, the fourth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3a.

h) If personal data are disseminated to commercial third parties, the fourth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

i) If no personal data are sold or rented out, the fifth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3a.

j) If personal data are sold or rented out, the fifth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

k) If no personal data are retained in unencrypted form, the sixth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3a.

l) If personal data are retained in unencrypted form, the sixth row of the third column of the table in point 1 shall entail the graphical form referred to in point 3b.

5) The reference colours of the graphical forms in point 1 in Pantone are Black Pantone No 7547 and Red Pantone No 485. The reference colour of the graphical form in point 3a in Pantone is Green Pantone No 370. The reference colour of the graphical form in point 3b in Pantone is Red Pantone No 485.

6) The proportions given in the following graduated drawing shall be respected, even where the table is reduced or enlarged:

