



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2012/0011(COD)

04.03.2013

AMENDMENTS (1)

351 - 601

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

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

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

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PE504.340v01-00

EN

United in diversity

EN

Amendment 351

Nils Torvalds

Proposal for a regulation

Title 1

Text proposed by the Commission

Proposal for a

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

on the protection of individuals with regard
to the processing of personal data and on
the free movement of such data (General
Data Protection **Regulation**)

(Text with EEA relevance)

Amendment

Proposal for a

DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

on the protection of individuals with regard
to the processing of personal data and on
the free movement of such data (General
Data Protection **Directive**)

(Text with EEA relevance)

Or. en

Amendment 352

Marie-Christine Vergiat

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The processing of personal data is designed to serve **man**; the principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.

Amendment

(2) The processing of personal data is designed to serve **humanity**; the principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.

Amendment 353

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the **free flow** of personal data between Member States.

Amendment

(3) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the **crossborder exchange** of personal data between Member States.

Or. en

Amendment 354

Marie-Christine Vergiat

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between economic and social, public and private actors across the Union increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.

Amendment

(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between economic and social, public and private actors across the Union increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.

Member States have a positive obligation under the terms of the European Convention for the Protection of Human Rights and Fundamental Freedoms to ensure that such data flows are appropriately regulated and that both the public and private sectors comply with Council of Europe Convention No 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which applies to both public- and private-sector activities.

Or. fr

Justification

This amendment incorporates a reference to Council of Europe Convention No 108. It amplifies Amendment 1 by Mr Albrecht.

Amendment 355 **Dimitrios Droutsas**

Proposal for a regulation **Recital 5**

Text proposed by the Commission

(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and **collecting** has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and requires to **further** facilitate the free flow of data within the Union and the transfer to third countries and international organisations, **while** ensuring **an** high level of the protection of personal data.

Amendment

(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and **collection** has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and requires **improved legal safeguards** to facilitate the free flow of data within the Union, **into the Union** and the transfer to third countries and international organisations, ensuring **a** high

level of the protection of personal data.

Or. en

Amendment 356
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) These developments require building a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance to create the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced.

Amendment

(6) These developments require building a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance to create the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced. ***At the same time data protection rules should not undermine competitiveness, innovation and new technology.***

Or. en

Amendment 357
Cornelia Ernst

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators,

Amendment

(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators,

including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member States. To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member States. ***Where demonstrably necessary and without undermining protection of personal data principles***, to take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

Or. en

Amendment 358
Wim van de Camp

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators,

Amendment

(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators,

including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member States. ***To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition,*** the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member States. ***The level of protection of personal data and the measures to be taken by the controller or the processor should not be dependent on the size of the enterprise processing the personal data, but on the risk posed by such processing. However,*** the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

Or. en

Justification

This amendment speaks for itself. It matches the risk-based approach. The special needs of SMEs should be taken into account when applying the Regulation, not in the Regulation itself.

Amendment 359

Louis Michel

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) The protection afforded by this Regulation concerns natural persons,

Amendment

(12) The protection afforded by this Regulation concerns natural persons,

whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in *particular* undertakings *established as legal persons*, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.

whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in undertakings, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.

Or. en

Amendment 360

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.

Amendment

(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data, *except for those pursuing economic activity, which identifies them on the market*. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.

Or. en

Amendment 361
Salvatore Iacolino

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and *in particular undertakings established as legal persons*, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the *legal person* contains the names of one or more natural persons.

Amendment

(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and *enterprises, pursuant to Article 4(15) of this Regulation*, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the *enterprise* contains the names of one or more natural persons.

Or. it

Justification

To avoid differing interpretations, Recital 12 should be realigned with Article 4(15) of this Regulation, where it refers to persons engaged in an economic activity, because this should be the element that is relevant for the purposes of exclusion, and not the legal form.

Amendment 362
Sophia in 't Veld

Proposal for a regulation
Recital 14

Text proposed by the Commission

(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*

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, or the processing of personal data by the Member States when

institutions, bodies, offices and agencies, which are subject to Regulation (EC) No 45/2001, 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.

carrying out activities in relation to the common foreign and security policy of the Union.

Or. en

Amendment 363
Dimitrios Droutsas

Proposal for a regulation
Recital 14

Text proposed by the Commission

(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, 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.

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 *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*, 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. *To ensure a coherent data protection framework throughout the Union, Regulation (EC) No 45/2001 should be brought into line with this Regulation.*

Or. en

Amendment 364
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 14

Text proposed by the Commission

(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, 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.

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 Member States when carrying out activities in relation to the common foreign and security policy of the Union.

Or. en

Amendment 365
Sophia in 't Veld

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Without prejudice to the limitations of the material scope of this Regulation, this Regulation should apply to the processing of personal data by third country authorities for the purpose of intelligence gathering and surveillance within the territory of the EEA by means of extraterritorial jurisdiction.

Or. en

Amendment 366
Axel Voss, Monika Hohlmeier

Proposal for a regulation
Recital 15

Text proposed by the Commission

(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.**

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 **or a private sale** and without any connection with a professional or commercial activity, **irrespective of the number of persons the data are made available to.**

Or. en

Amendment 367
Françoise Castex

Proposal for a regulation
Recital 15

Text proposed by the Commission

(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.

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. **This exemption should not apply to such personal or domestic activities, where the natural person makes personal data of other natural persons accessible to an indefinite number of individuals.** The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.

Amendment 368
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 15

Text proposed by the Commission

(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.

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, ***independently by the medium used***, and the holding of addresses, and without any gainful interest and thus without any connection with a professional or commercial activity. ***The nature of data processed, the purpose of the processing and the number of people to whom it is made available should be considered in order to determine whether the processing falls under this exemption, also taking into account the technological developments and new media.*** The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.

Amendment 369
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) This Regulation should not apply to processing of personal data by a natural person, ***which are exclusively*** personal or

Amendment

(15) This Regulation should not apply to processing of personal data by ***controllers or processors who are*** a natural person,

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.

when the processing of data is done for purely personal or family matters that have been disclosed to them by the data subject himself or that they have received in a lawful manner. The exemption should not apply where the processing of personal data is done in pursuit of a professional or commercial objective. Also, the nature of the personal data processed and whether it is available to a indefinite number of persons should be taken into account in determining whether the processing falls within the exemption. The exemption should not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.

Or. en

Amendment 370
Axel Voss

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) This Regulation should not apply to processing personal data by small enterprises which are using personal data exclusively for its own business such as offers and invoices. If there is no risk for the processed personal data that no one else than the enterprise itself is handling the data there is no need for an additional protection than securing the data for access. This exemption should not apply for Articles 15, 16 and 17.

Or. en

Amendment 371
Dimitrios Droutsas

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) The protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, is subject of a specific legal instrument at Union level. Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY).

Amendment

(16) The protection of individuals with regard to the processing of personal data by competent **public** authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, is subject of a specific legal instrument at Union level. Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY).

Or. en

Amendment 372
Josef Weidenholzer

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) This Regulation should 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

(17) This Regulation should be without prejudice to the application of the liability rules of intermediary service providers in Articles 12 to 15 of **Directive 2000/31/EC**.

Or. en

Amendment 373
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 18

Text proposed by the Commission

(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.

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.
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 law regarding public access to documents, in order to reconcile the protection of personal data with the principle of public access to official documents.

Or. en

Amendment 374
Anna Hedh, Marita Ulvskog

Proposal for a regulation
Recital 18

Text proposed by the Commission

(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.

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.
Personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Member State legislation to which the public authority or public body is subject. Such legislation shall reconcile the right to the protection of personal data with the principle of public access to official documents.

Amendment 375
Alexander Alvaro

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Any processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union or not. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in this respect.

Amendment

(19) Any processing of personal data *of data subjects residing in the Union* in the context of the activities of an establishment of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union or not. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in this respect.

Justification

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

Amendment 376
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Any processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union

Amendment

(19) Any processing of personal data *of data subjects residing in the Union* in the context of the activities of an establishment

should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union or not. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in this respect.

of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes place within the Union or not. Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in this respect.

Or. en

Amendment 377
Jan Mulder

Proposal for a regulation
Recital 20

Text proposed by the Commission

(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.

Amendment

(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 *(free)*services to such data subjects, or to the monitoring of the behaviour of such data subjects.

Or. en

Amendment 378
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 20

Text proposed by the Commission

(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.*

Amendment

(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.

Or. en

Amendment 379

Jan Mulder

Proposal for a regulation

Recital 21

Text proposed by the Commission

(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.

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, *regardless of the origins of the data*, 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.

Or. en

Amendment 380

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 21

Text proposed by the Commission

(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.

Amendment

(21) ***It should be ascertained*** whether a processing activity ***involves tracking of*** individuals 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.

Or. en

Amendment 381

Louis Michel

Proposal for a regulation

Recital 21 a (new)

Text proposed by the Commission

(21a) In order to determine whether a processing activity can be considered as relating to ‘the offering of goods or services’, it should be ascertained that the offer is clearly addressed and not only made accessible to data subjects in the Union. The possibilities of delivery in the EU, the language used as well as the domain name used may be taken into account. The notion should apply irrespective of whether a payment of the data subject is required.

Amendment

Or. en

Amendment 382

Louis Michel

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) The law of a Member State includes collective agreements in the labour market. A collective agreement in the labour market is an agreement between one or more representative employee organisation(s) and one or more representative employers organisation(s) or one or more employer(s). Such an agreement defines the collective and individual relationships (e.g. working conditions and salary) between employers and employees of all enterprises or of the enterprises of a specific sector of industry. It also fixes the rights and obligations of the parties to the agreement. A collective agreement in the labour market adds elements to employment law that are not foreseen by the employment act (Code de travail) or adapts general clauses of this employment act to the specific situation of the sector of industry involved. The collective agreement thus applies to every employee or to every employee of the sector of industry involved.

Or. en

Amendment 383
Jan Mulder

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

(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.

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 *as for example data that has been anonymised for the purpose of medical research.*

Or. en

Amendment 384
Alexander Alvaro

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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.

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. *It should be taken into account, whether personal identifiers have been removed and whether the link to these personal identifiers is still maintained so the data can be attributed to a data subject by anyone who has access to the linking codes.* The principles of data protection should not apply to data rendered anonymous in such a way that the data subject is no longer identifiable.

Or. en

Justification

Promotion of the processing of pseudonymized data in line with new definition in Article 4.

Amendment 385
Claude Moraes, Glenis Willmott

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of *data* 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 *reasonably* likely to be used either by the controller or by any other person to identify the individual. ***For historical, statistical and scientific purposes, identification should not be deemed ‘reasonably likely’ where the data being used is kept separately from the information enabling identification of the data subject.*** The principles of data protection should not apply to data rendered anonymous in such a way that the data subject is no longer identifiable

Or. en

Amendment 386
Sylvie Guillaume, Françoise Castex

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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

Amendment

(23) The principles of protection should apply to any information concerning an identified or identifiable person, ***including after their death.*** 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

data subject is no longer identifiable.

a way that the data subject is no longer identifiable.

Or. en

Amendment 387
Jan Philipp Albrecht

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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*.

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 *or single out the individual*. *This Regulation* should not apply to *anonymous data, meaning any data that can not be related, directly or indirectly, alone or in combination with associated data, to a natural person or where establishing such a relation would require a disproportionate amount of time, expense, and effort, taking into account the state of the art in technology at the time of the processing and the possibilities for development during the period for which the data will be processed*.

Or. en

Justification

Replaces AM 14 by the rapporteur, adding the clarification on 'singling out' in line with AM 84 to Article 4(1)

Amendment 388
Michèle Striffler

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of protection should apply to any information concerning an identified or identifiable person. To determine whether a **natural** person is identifiable, **even after his or her death**, 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.

Or. fr

Amendment 389
Nathalie Griesbeck

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of protection should apply to any information concerning an identified or identifiable **natural** person, **even after his or her death**. 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.

Or. fr

Justification

The proposal for a regulation does not address the issue of the processing of the personal data of deceased persons. This amendment seeks to extend the scope of the rules laid down by the regulation to cover such data.

Amendment 390

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of protection should apply **only to specific** information concerning an identified or identifiable person. To determine whether a person is identifiable, account should be taken: **(i) only of those** means likely reasonably to be used by the controller or by any other **natural or legal** person to identify the individual, **and (ii) of the reasonably likeliness of a person being identified**. The principles of data protection should not apply to data rendered anonymous in such a way that the data subject is no longer identifiable **from the data**.

Or. en

Amendment 391

Louis Michel

Proposal for a regulation

Recital 23

Text proposed by the Commission

(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

Amendment

(23) The principles of protection should apply **only to** information concerning an identified or identifiable **natural** person. To determine whether a person is identifiable, account should be taken of the

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.

means likely reasonably to be used by the controller. *A natural person should not be considered identifiable if identification requires a disproportionate amount of time, effort or material resources or if the controller has put in place the measures to prevent the information from fully identifying the natural person*. The principles of data protection should not *therefore* apply to data *where the data subject is not yet identifiable or data which is* rendered anonymous in such a way that the data subject is *not* identifiable.

Or. en

Amendment 392
Sarah Ludford

Proposal for a regulation
Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of protection should apply *only* to any *specific* information concerning an identified or identifiable person. To determine whether a person is identifiable, account should be taken of *only those* means likely reasonably to be used either by the controller or by any other *natural or legal* person to identify the individual and *of the reasonable likelihood of a person being identified*. The principles of data protection should not apply to data rendered anonymous in such a way that the data subject is no longer *or not yet* identifiable *from the data*.

Or. en

Justification

There should be a degree of practicality and reasonableness in the delimitation of what is

'personal data'.

Amendment 393

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 23

Text proposed by the Commission

(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.

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 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.

Or. en

Amendment 394

Marie-Christine Vergiat

Proposal for a regulation

Recital 23

Text proposed by the Commission

(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.

Amendment

(23) The principles of protection should apply to any information concerning an identified or identifiable **natural** person, **even after his or her death**. 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.

Justification

The proposal for a regulation does not explicitly address the issue of the processing of the personal data of deceased persons. It is important that the successors in right and title or the legal representative of a deceased person should be able to ensure that the latter's data protection rights (access, rectification, etc.) can be exercised, in accordance with the wishes expressed prior to his or her death. This amendment is thus linked to the amendments to Articles 15 to 17.

Amendment 395

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) This Regulation recognises that pseudonymisation is in the benefit of all data subjects as, by definition, personal data is altered so that it of itself cannot be attributed to a data subject without the use of additional data. By this, controllers should be encouraged to the practice of pseudonymising data.

Amendment 396

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

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) This regulation recognises that pseudonymisation is in the benefit of all data subjects as, by definition, personal data is altered so that it of itself cannot be attributed to a data subject without the use

additional data. By this, controllers should be encouraged to the practice of pseudonymising data.

Or. en

Amendment 397
Nathalie Griesbeck

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) The identification numbers issued by States should be regarded as personal data.

Or. fr

Justification

Given the importance, including in terms of civil status, of the identification numbers issued by States (social security number, passport and identity card number, school registration number, etc.) it should be made clear that they constitute personal data.

Amendment 398
Alexander Alvaro

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 individuals

(24) When using online *or offline* services, individuals may be associated with identifiers provided by their devices, applications, tools and protocols *or other consumer goods*, such as Internet Protocol addresses or cookie identifiers, *RFID tags and other unique identifiers*. This may leave traces which, combined with unique identifiers and other information received,

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.

may be used to create profiles of the 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.

Or. en

Justification

Also offline services can leave traces.

Amendment 399 **Jan Mulder**

Proposal for a regulation **Recital 24**

Text proposed by the Commission

(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 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

(24) When using *services or devices*, individuals may be associated with 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 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.

Or. en

Amendment 400 **Axel Voss**

Proposal for a regulation **Recital 24**

Text proposed by the Commission

(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 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

(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 individuals and identify them. It follows that ***a study should be undertaken, on a case-by-case basis and in accordance with technological developments, of whether*** identification numbers, location data, online identifiers or other specific factors as such need not necessarily be considered as personal data in all circumstances.

Or. en

Justification

Taken from IMCO-opinion.

Amendment 401
Jan Philipp Albrecht

Proposal for a regulation
Recital 24

Text proposed by the Commission

(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 individuals and identify them. It follows***

Amendment

(24) When using online ***or offline*** services, individuals may be associated with ***one or more*** identifiers provided by their devices, applications, tools, ***protocols or other consumer goods***, such as Internet Protocol addresses, cookie identifiers, ***RFID-tags and other unique identifiers***. ***Since such identifiers leave traces and can be used to single out natural persons, this Regulation should be applicable to***

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

processing involving such data, unless those identifiers demonstrably do no relate to natural persons, such as for example the IP addresses used by companies, which cannot be considered as ‘personal data’ as defined in this Regulation.

Or. en

Justification

The concept of personal data is further clarified with objective criteria. Identifiers that have a close relation to a natural person must be regarded personal data. See related amendments to Article 4(1), Recital 23. This amendment further clarifies the use of personal data in an online and offline environment. The Art. 29 Working Party has repeatedly stated that RFID-tags are personal data.

Amendment 402

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 24

Text proposed by the Commission

(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 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

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

Or. en

Amendment 403
Louis Michel

Proposal for a regulation
Recital 24

Text proposed by the Commission

(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 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

(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, **internet ports** 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 individuals and identify them. It follows that **serial numbers of products, IP addresses, internet ports, International Mobile Equipment Identity codes of mobile telephones** or other **such identifiers** as such need not necessarily be considered as personal data in all circumstances.

Or. en

Amendment 404
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Recital 24

Text proposed by the Commission

(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 individuals and identify them. **It follows that identification numbers, location data,**

Amendment

(24) When using online services, individuals **and households** 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 individuals and identify them. **Reidentification of personal data, for**

online *identifiers or other specific factors as such need not necessarily be considered as personal data in all circumstances.*

instance by using retained online traces for the creation of profiles of the individuals, breaches of pseudonym and identification of the data subjects should be forbidden.

Or. en

Amendment 405
Frank Engel

Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Where a service provider processes personal data without being able to access this data by means that are technically feasible, do not involve a disproportionate effort, and reasonably likely to be used by the service provider to gain knowledge of the content of such data, such service providers should be deemed to be a neutral intermediary or mere conduit pursuant to Article 12 of Directive 2000/31/EC, who are not responsible for any personal data transmitted or otherwise processed or made available through them.

Or. en

Amendment 406
Cornelia Ernst

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

(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.

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, *mere use of a service*, or inactivity, *such as not un-ticking pre-ticked boxes*, 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.

Or. en

Amendment 407
Jan Mulder

Proposal for a regulation
Recital 25

Text proposed by the Commission

(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

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. *User-friendly information about the types*

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.

of processing that will be carried out should facilitate informed consent. Silence, *inactivity such as not changing opt-in by default settings*, 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.

Or. en

Amendment 408

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 25

Text proposed by the Commission

(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.

Amendment

(25) Consent should be given **unambiguously** by any appropriate method **within the context of the product or service being offered** 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.

Or. en

Amendment 409

Louis Michel

Proposal for a regulation

Recital 25

Text proposed by the Commission

(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.

Amendment

(25) Consent should be given by any appropriate method enabling a freely given specific and informed indication of the data subject's **will**, either by a statement or by **an** action by the data subject, ensuring that individuals are aware that they give their consent to the processing of personal data, including by **using appropriate settings or 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 **covers** 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.

Or. en

Amendment 410

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Recital 25

Text proposed by the Commission

(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.

Amendment

(25) Consent should be given **freely and without pressure from the controller and** explicitly by any appropriate method enabling **an** 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.

Or. en

Amendment 411
Carmen Romero López

Proposal for a regulation
Recital 25

Text proposed by the Commission

(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

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.

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. ***The subject should also have the right to withdraw their consent at any time and with the same facility as it was granted.***

Or. es

Justification

The intention is to emphasise that individuals should be able to withdraw their consent under the same conditions afforded them when granting it, without any additional effort or time being involved.

Amendment 412 **Sarah Ludford, Charles Tannock**

Proposal for a regulation **Recital 25**

Text proposed by the Commission

(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.

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.

The act of seeking and agreeing to specific healthcare treatment should be considered as consent within the meaning of Articles 4(8) and 6(1)(a) to the processing of personal health data related to that specific treatment and as meeting the burden of proof under Article 7(1), without preventing Member States from maintaining existing more stringent national rules in this regard. 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.

Or. en

Justification

Self-explanatory.

Amendment 413

Anna Maria Corazza Bildt, Sabine Verheyen, Kinga Gál, Mariya Gabriel, Axel Voss

Proposal for a regulation

Recital 25

Text proposed by the Commission

(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

Amendment

(25) Consent should be given **unambiguously** 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

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.

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. ***The information provided in order for children to express the consent should be given in a clear and age-appropriate language, in a way that it would be easy to understand for a child above the age of 13.***

Or. en

Amendment 414

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

Proposal for a regulation Recital 25

Text proposed by the Commission

(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

Amendment

(25) Consent should be given ***unambiguously*** by any appropriate method ***within the context of the product or the service being offered*** 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. ***This nevertheless leaves the provisions of 2002/58/EC***

an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.

untouched which state that under certain circumstances consent can be expressed via appropriate settings in the user's device. 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.

Or. en

Amendment 415
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) This Regulation recognises that the pseudonymisation of data can help minimise the risks to privacy of data subjects. To the extent that a controller pseudonymises data, such processing should be considered justified as a legitimate interest of the controller.

Or. en

Amendment 416
Nathalie Griesbeck

Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Medical consultations, the provision of healthcare, diagnoses and the provision of medical treatment all entail the collection and processing of personal

data. A patient's decision to seek medical care should be regarded as one giving explicit consent to the collection and processing of personal data.

Or. fr

Justification

This amendment removes all ambiguity concerning the application of the criteria governing the lawfulness of the collection and processing of personal data in the context of the provision of medical care listed in Article 6(1).

Amendment 417

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Personal data relating to health should include in particular all data pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, including biological samples; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a

Amendment

(26) Personal data ***including genetic information*** relating to health should include in particular all data pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, including biological samples; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from

hospital, a medical device, or an in vitro diagnostic test.

a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Or. en

Amendment 418

Claude Moraes, Glenis Willmott

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Personal data relating to health should include in particular all **data** pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, **including** biological **samples**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Amendment

(26) Personal data relating to health should include in particular all **personal information** pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; **personal** information derived from the testing or examination of a body part or bodily substance, **or** biological **sample**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Or. en

Amendment 419
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Personal data relating to health should include in particular all data pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; **information** derived from the testing or examination of a body part **or** bodily substance, **including** biological **samples**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Amendment

(26) Personal data relating to health should include in particular all **personal** data pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; **personal data** derived from the testing or examination of a body part, bodily substance **or** biological **sample**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Or. en

Amendment 420
Axel Voss, Seán Kelly, Wim van de Camp, Monika Hohlmeier, Lara Comi, Véronique Mathieu Houillon

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Personal data relating to health should include in particular all data pertaining to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; **information** derived from the testing or examination of a body part **or** bodily substance, **including** biological **samples**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Amendment

(26) Personal data relating to health should include in particular all **personal** data pertaining to the health status of a data subject **including genetic information**; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; **personal data** derived from the testing or examination of a body part, bodily substance **or** biological **sample**; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 421

Louis Michel

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Personal data relating to health should include in particular all data pertaining to the health status of a data subject; ***information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, including biological samples; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment,*** or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Amendment

(26) Personal data relating to health should include in particular all data ***directly*** pertaining to the health status of a data subject or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.

Or. en

Amendment 422

Jan Mulder

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) The main establishment of a controller in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to the purposes,

Amendment

(27) If a controller or a processor has multiple establishments in the Union, including but not limited to cases where the controller or the processor is part of a group of undertakings, the main establishment of a controller in the Union

conditions and means of processing through stable arrangements. This criterion should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore *no* determining criteria for a main establishment. ***The main establishment of the processor should be the place of its central administration in the Union.***

for the purposes of this Regulation should be determined according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to the purposes, conditions and means of processing through stable arrangements. This criterion should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore *not* determining criteria for a main establishment.

Or. en

Amendment 423

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

Proposal for a regulation Recital 27

Text proposed by the Commission

(27) The main establishment of a controller in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to the purposes, conditions and means of processing through stable arrangements. This criterion should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore *no* determining criteria for a main establishment. ***The main establishment of***

Amendment

(27) ***Where a controller or a processor has multiple establishments in the Union, including but not limited to cases where the controller or the processor is a group of undertakings,*** the main establishment of a controller in the Union ***for the purposes of this Regulation*** should be determined according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to the purposes, conditions and means of processing through stable arrangements. This criterion should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for

the processor should be the place of its central administration in the Union.

processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore *not* determining criteria for a main establishment. *A group of undertakings may nominate a single main establishment* in the Union.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 424

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) A group of undertakings should cover a controlling undertaking and its controlled undertakings, whereby the controlling undertaking should be the undertaking which can exercise a dominant influence over the other undertakings by virtue, for example, of ownership, financial participation or the rules which govern it or the power to have personal data protection rules implemented.

Amendment

(28) A group of undertakings should cover a controlling undertaking and its controlled undertakings, whereby the controlling undertaking should be the undertaking which can exercise a dominant influence over the other undertakings by virtue, for example, of ownership, financial participation or the rules which govern it or the power to have personal data protection rules implemented. *A group of undertakings may nominate a single main establishment in the Union.*

Or. en

Amendment 425

Anna Maria Corazza Bildt, Sabine Verheyen, Kinga Gál, Mariya Gabriel, Axel Voss

Proposal for a regulation

Recital 29

Text proposed by the Commission

(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.

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 of personal data ***and they are also vulnerable consumers***. 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. ***In particular, child-friendly language should be used to ensure the right of consent for children above the age of 13.***

Or. en

Amendment 426
Marian Harkin, Seán Kelly

Proposal for a regulation
Recital 29

Text proposed by the Commission

(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.

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 of personal data. ***Such protection is particularly important in the context of social networks, where children should be aware of the identities of those with whom they are communicating.*** 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.

Or. en

Amendment 427

Sabine Verheyen, Axel Voss, Kinga Gál, Anna Maria Corazza Bildt, Monika Hohlmeier

Proposal for a regulation

Recital 29

Text proposed by the Commission

(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.***

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 of personal data. ***Such protection is particularly important in the context of social networks. For the purpose of this regulation a child should be defined as*** an individual ***under the age of 18. Where data processing is based on the data subject's consent in relation to the offering of information society services directly to a child, the regulation should differentiate between children above the age of 13 and children under the age of 13 who require a higher level of protection to the extent that consent is given or authorised by the child's parent or custodian.***

Or. en

Amendment 428

Alexander Alvaro

Proposal for a regulation

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) The same personal data can have different significance depending on the context of and the risks represented by its processing. Controllers should therefore implement appropriate technical and organisational measures and procedures in respect to the contexts of and the risks represented by the data processing.

Justification

The loss of an address of a data subject can have different implications when it is lost by a retailer which had retained the address for shipping purposes or when it is lost by a cancer specialist which had retained the address for billing purposes.

Amendment 429

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) The same personal data can have different significance depending on the context of and the risks represented by its processing. Controllers should therefore implement appropriate technical and organisational measures and procedures in respect to the context of and the risks represented by the data processing.

Amendment 430

Birgit Sippel, Josef Weidenholzer

Proposal for a regulation

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) Within the limits of this regulation Member States should ensure that children can always have access to preventive and counselling services of the information society such as online counselling on sexual abuse, problems related to drug abuse or other psychological problems without needing the consent of their parent or legal

custodian.

Or. en

Justification

(See new wording of Article 8)

Certain services of the information society offered to children rely on the fact that children can use them without their parents' consent. This is for example the case with online-chats for victims of sexual abuse. Without a possible derogation for these cases, some services targeting children seeking for help in situations where their parents or legal representative might be closely linked to the problem of the child would not be available any more.

Amendment 431

Birgit Sippel, Josef Weidenholzer, Jutta Steinruck, Evelyn Regner

Proposal for a regulation

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) Workers' personal data, especially sensitive data such as political orientation and membership of and activities in trade unions, must be protected in accordance with Articles 8, 12 and 28 of the Charter of Fundamental Rights of the European Union and Articles 8 and 11 of the European Convention on Human Rights, and may under no circumstances be used to put workers on so-called 'blacklists' to be passed on to other enterprises with the aim of discriminating against particular workers.

Or. de

Amendment 432

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) Workers' personal data, especially sensitive data such as political orientation and membership of and activities in trade unions, should be protected in accordance with Articles 8, 12, 27 and 28 of the Charter of Fundamental Rights of the European Union and Articles 8 and 11 of the European Convention on Human Rights. Workers' personal data may not be used to put workers on so-called 'blacklists' to be passed on to other enterprises with the aim of discriminating against particular workers.

Or. en

Amendment 433

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 30

Text proposed by the Commission

Amendment

(30) Any processing of personal data should be lawful, fair and transparent in relation to the individuals concerned. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and limited to the minimum necessary for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means. Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted. ***In***

(30) Any processing of personal data should be lawful, fair and transparent in relation to the individuals concerned. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and limited to the minimum necessary for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means. Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted.

order to ensure that the data are not kept longer than necessary, time limits should be established by the controller for erasure or for a periodic review.

Or. en

Amendment 434
Claude Moraes, Glenis Willmott

Proposal for a regulation
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) Workers' personal data, especially sensitive data such as political orientation and trade union membership and activities, should be protected in accordance with Articles 8, 12, 27 and 28 of the Charter of Fundamental Rights of the European Union and Articles 8 and 11 of the European Convention on Human Rights. Safeguards should be implemented to avoid instances where workers' personal data is used in the practice of blacklisting where it is passed on to other enterprises or individuals with the aim of discriminating against particular workers.

Or. en

Justification

Personal data will never be used against the data subject in an employment context.

Amendment 435
Axel Voss

Proposal for a regulation
Recital 31

Text proposed by the Commission

(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.

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. ***The allowance of a controller to process personal data should include the allowance to process personal data with other joint controllers and to allow personal data to be processed by a processor established in or outside the European Union.***

Or. en

Justification

The clarification is necessary to reduce the lack of clarity concerning the concept of the data controller and the processor as identified by the European Data Protection authorities in their WP 169 which have led to different interpretations of the same principles and definitions introduced for the purpose of harmonisation at European level.

Amendment 436
Birgit Sippel, Josef Weidenholzer

Proposal for a regulation
Recital 31

Text proposed by the Commission

(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.

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. ***In case of a child or a person lacking legal capacity, the consent should be given by the data subject's legal representative.***

Amendment 437
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Recital 32

Text proposed by the Commission

(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.

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 data subject is aware that and to what extent consent is given. ***Similar to civil law terms (Directive 93/13/EEC) written declarations (privacy policies) should be as clear and transparent as possible given the form of processing. They should not contain hidden or disadvantageous clauses, such as the right to forward personal data to other controllers or secondary use of personal data. To encourage controllers to provide proper information, partly illegal clauses should be fully void.***

Justification

Data subjects are often confronted with exceptionally vague, lengthy or complicated policies which deter data subjects from reading and understanding them. The amendment is introducing the well-established principles concerning unfair terms in consumer contracts to address this issue. This also allows referring to long standing case law when interpreting the regulation.

Amendment 438
Louis Michel

Proposal for a regulation
Recital 33

Text proposed by the Commission

(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.

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 ***that has no legitimate reason. When personal data, which are processed on the basis of a data subject's consent are necessary for the provision of a service or other benefit for the data subject, the withdrawal of the consent should constitute a ground for the termination or the non execution of a contract by the service provider.***

Or. en

Amendment 439
Cornelia Ernst

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Consent is not indefinite in time and loses its legal effect as a basis for processing as soon as the processing of personal data is no longer necessary for carrying out the purpose for which they were originally collected. Where the conclusion of the intended purpose can not be clearly determined, the controller should at least once a year provide the data subject with the information pursuant to Article 14 and request a confirmation of the original consent from the data subject. If the data subject does not reply positively, the original consent should be considered to have lost its effectiveness at the end of the second

calendar year after the first processing.

Or. en

Amendment 440

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 33 b (new)

Text proposed by the Commission

Amendment

(33b) Consent should only be considered a valid ground for processing that is lawful and thus not excessive in relation to the purpose. Disproportional data processing cannot be legitimised though obtaining consent.

Or. en

Amendment 441

Nils Torvalds

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

deleted

powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject.

Or. en

Amendment 442
Jens Rohde, Adina-Ioana Vălean

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

Or. en

Amendment 443
Axel Voss, Wim van de Camp, Hubert Pirker, Véronique Mathieu Houillon, Salvatore Iacolino, Lara Comi

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

Or. en

Amendment 444

Cornelia Ernst

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

(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.

virtue of its relevant public powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject. ***The latter should not apply when the public authority acts as an employer.***

Or. en

Amendment 445

Jan Mulder

Proposal for a regulation

Recital 34

Text proposed by the Commission

(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.

Amendment

(34) Consent should not ***as a rule*** provide a valid legal ground for the processing of personal data, where there is a clear imbalance between the data subject and the controller ***which is specifically*** 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.

Or. en

Amendment 446

Louis Michel, Philippe De Backer

Proposal for a regulation

Recital 34

Text proposed by the Commission

(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.

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. ***There is no imbalance when the data are processed in the context of employment or risk protection.*** 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.

Or. en

Amendment 447

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Recital 34

Text proposed by the Commission

(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

Amendment

(34) Consent should ***be expressed freely and without pressure from the controller. Consent cannot be deemed as freely given when due to*** a clear ***lack of balance*** between the data subject and the controller, ***a refusal to give consent could result in adverse financial or legal consequences for the data subject.*** 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

virtue of its relevant public powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject.

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.

Or. en

Amendment 448

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation

Recital 34

Text proposed by the Commission

(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.

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 *is* 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.

Or. de

Amendment 449

Axel Voss

Proposal for a regulation

Recital 36

Text proposed by the Commission

(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 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

(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 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. ***The data processing may also be performed on the basis of agreements under collective labour law. Agreements under collective labour law are agreements concluded between employers or their representatives and representatives of employees or between these parties and a State entity at national, sectoral or firm level.***

Or. de

Amendment 450
Alexander Alvaro

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) The processing of personal data should equally be regarded as lawful where it is necessary to protect an interest which

Amendment

(37) The processing 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 life.

is essential for the data subject's life *or processing is necessary for the purposes of ensuring the ability of a network or an information system to resist accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity or confidentiality of stored or transmitted data and the security of the related services offered by or accessible via these networks and systems.*

Or. en

Justification

Promotion of physical data protection and network security.

Amendment 451 **Alexander Alvaro**

Proposal for a regulation **Recital 38**

Text proposed by the Commission

(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

Amendment

(38) The legitimate interests of a controller may provide a legal basis for processing, provided that the *legitimate expectations of the data subject based on his or her relationship with the controller* or the fundamental rights and freedoms of the data subject *which require protection of personal data* are not overriding *the interests of the controller or the rights and freedoms of the controller to conduct a business*. 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

by public authorities in the performance of their tasks.

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.

Or. en

Justification

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

Amendment 452 **Sophia in 't Veld**

Proposal for a regulation **Recital 38**

Text proposed by the Commission

(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

Amendment

(38) The legitimate interests of a controller may provide a legal basis for processing *in a restrictive way, when no other legal grounds for processing apply and* 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

by public authorities in the performance of their tasks.

authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.

Or. en

Amendment 453
Dimitrios Droutsas

Proposal for a regulation
Recital 38

Text proposed by the Commission

(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.

Amendment

(38) *In exceptional circumstances*, 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 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.

Or. en

Amendment 454
Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation
Recital 38

Text proposed by the Commission

(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.

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. ***A legitimate interest pursued by a controller may include in particular direct marketing of controller's goods and services and enforcement of the controller's claims. When data subject withdraws his or her consent, the controller should be also allowed to refuse further provision of services if the processing is necessary because of the nature of the service or the functioning of the filling system.*** 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.

Or. en

Amendment 455

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

Proposal for a regulation
Recital 38

Text proposed by the Commission

(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.

Amendment

(38) The legitimate interests of a controller ***or the third party to which the data have been transferred*** 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.

Or. en

Amendment 456
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 38

Text proposed by the Commission

(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

Amendment

(38) The legitimate interests of a controller, ***or the third party or parties in whose interest the data is processed,*** 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

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.

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.

Or. en

Amendment 457

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 38

Text proposed by the Commission

(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

Amendment

(38) *In exceptional circumstances, the well-defined* legitimate *interest* 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. *Notably, direct marketing should not be seen as a legitimate interest.* 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 free of charge. To ensure transparency, the controller should be obliged to explicitly inform the data subject on the *specific* legitimate *interest* pursued and on the *data subject's* right to object, and also be obliged to document

for public authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.

this specific legitimate *interest it intends to use as a legal basis and notify the national data protection authority in advance of any such 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..

Or. en

Amendment 458

Sabine Verheyen, Axel Voss, Kinga Gál, Monika Hohlmeier

Proposal for a regulation

Recital 38

Text proposed by the Commission

(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.

Amendment

(38) The legitimate interests of a controller *or the third party to which the data have been transferred* 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.

Or. en

Amendment 459
Françoise Castex

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The prevention or limitation of damages on the side of the data controller, such as civil damages and remedies, should constitute a legitimate interest. Direct marketing should not constitute a legitimate interest.

Or. en

Amendment 460
Joanna Senyszyn

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The interests and fundamental rights of the data subject should override the interest of the data controller where the processing of personal data leads to a serious risk of damage to the data subject or to infringement of any of the fundamental rights of the data subjects, as laid down in the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 461
Dimitrios Droutsas

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The enforcement of legal claims against a data subject, such as debt collection or civil damages and remedies, should constitute a legitimate interest, provided the legal claim was established prior to the collection and processing of personal data. The same principle also applies to the prevention or limitation of damages by the data subject suffered by the controller, for example to prevent payment default.

Or. en

Amendment 462

Jan Mulder

Proposal for a regulation

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The processing of personal data for direct marketing purposes should constitute a legitimate interest, if the controller has obtained the personal data of the data subject in the context of the sale of a product or service and that the personal data are used for direct marketing of the data controllers own similar products.

Or. en

Amendment 463

Cornelia Ernst

Proposal for a regulation

Recital 40

Text proposed by the Commission

(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.

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. 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.

Or. en

Amendment 464

Claude Moraes, Glenis Willmott

Proposal for a regulation

Recital 40

Text proposed by the Commission

(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

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 ***such as*** 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

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.

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.

Or. en

Justification

This amendment clarifies that historical, statistical and scientific purposes are intended to be deemed ‘not incompatible’ purposes. While this appears to have been the intention of the original draft in order to be consistent with the 1995 Data Protection Directive, the use of ‘in particular’ is ambiguous. This amendment is supported by the proposal to introduce a new paragraph 2 in Article 83.

Amendment 465

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 40

Text proposed by the Commission

(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

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, ***such as*** where the processing is necessary for historical, statistical or scientific 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

principles set out by this Regulation and in particular the information of the data subject on those other purposes should be ensured.

Regulation and in particular the information of the data subject on those other purposes should be ensured.

Or. en

Amendment 466
Sarah Ludford

Proposal for a regulation
Recital 40

Text proposed by the Commission

(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.

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, *such as* 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.

Or. en

Justification

The amended wording is clearer.

Amendment 467

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

Proposal for a regulation

Recital 40

Text proposed by the Commission

(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.*

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.

Or. en

Amendment 468

Anna Hedh, Christel Schaldemose, Marita Ulvskog

Proposal for a regulation

Recital 40

Text proposed by the Commission

(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*

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. Where the other

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.

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.

Or. en

Amendment 469
Dimitrios Droutsas

Proposal for a regulation
Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) Processing of personal data collected for another purpose should be made available for public scientific research when a scientific relevance of the processing of the collected data can be justified. Privacy by design should be taken into account when making data available for public scientific research.

Or. en

Amendment 470
Axel Voss

Proposal for a regulation
Recital 41

Text proposed by the Commission

(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 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

(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 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 ***entering into or performance of a contract with the data subject or in the course of*** legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.

Or. en

Amendment 471

Louis Michel

Proposal for a regulation

Recital 41

Text proposed by the Commission

(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 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

(41) Personal data which are, by their nature, particularly sensitive and vulnerable in relation to fundamental rights or privacy, deserve specific protection. ***Nevertheless, when processing personal data, account should be taken of the context in which the processing takes place. This means in particular that in order to fall under the scope of the prohibition, the processing of personal data concerning health should be intended to reveal information concerning health. In this regard, all explicit and implicit purposes of the processing should be taken into account. It should suffice that one of the purposes of the processing***

consists of retrieving information concerning health for the prohibition to process the data to apply.

Or. en

Amendment 472
Louis Michel

Proposal for a regulation
Recital 42

Text proposed by the Commission

(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.

Amendment

(42) Such data should not be processed, unless the data subject gives 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 freedom. 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, ***such as protection against serious transborder health threats or in order to ensure high quality and security standards including for medication or medical tools,*** 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.

Or. en

Amendment 473

Anna Hedh, Christel Schaldemose, Marita Ulvskog

Proposal for a regulation

Recital 42

Text proposed by the Commission

(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.

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 purposes.

Or. en

Amendment 474

Cornelia Ernst

Proposal for a regulation

Recital 45

Text proposed by the Commission

(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

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 for further information to enable the data

controller to locate the personal data which that person seeks.

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.*

Or. en

Amendment 475
Csaba Sógor

Proposal for a regulation
Recital 45 a (new)

Text proposed by the Commission

Amendment

(45a) The right to the protection of personal data is based on the right of the data subject to exert the control over the personal data that are being processed. To this end the data subject should be granted clear and unambiguous rights to the provision of transparent, clear and easily understandable information regarding the processing of his or her personal data, the right of access, rectification and erasure of their personal data, the right to data portability and the right to object to profiling. Moreover the data subject should also have the possibility of lodging a complaint with regard to the processing of personal data by a controller or processor with the competent data protection authority and to bring legal proceedings in order to enforce his or her rights as well as the right to compensation and damages resulting of an unlawful processing operation or from an action incompatible with this Regulation. The provisions of this Regulation should strengthen, clarify, guarantee and where appropriate, codify those rights.

Or. hu

Amendment 476
Alexander Alvaro, Dimitrios Droutsas

Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) Data subjects should be informed about the data processing operations employed by the entity they are interacting with without being overwhelmed by the sheer amount of information they are provided with. A transparent and understandable information policy is therefore a pivotal element of every data processing framework. In order to allow a quicker understanding and better comparability of data protection policies, when providing information to the data subject, controllers should disclose short icon based information policies before laying down in detail their information policies. These icon based information policies should be standardized so that they can be provided in written and electronic form and be also easily readable on mobile devices. Detailed explanations or further remarks can follow as part of the more detailed information provisions to the data subjects. When provided electronically, the standardized information policies should be machine readable to allow for innovative implementation schemes.

Or. en

Amendment 477
Jan Mulder

Proposal for a regulation
Recital 47

Text proposed by the Commission

(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.

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 **reasonable** deadline and give reasons, in case he does not comply with the data subject's request.

Or. en

Amendment 478

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 47

Text proposed by the Commission

(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.

Amendment

(47) Modalities should be provided for facilitating the data subject's exercise of their rights provided by this Regulation, including mechanisms to request 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.

Or. en

Amendment 479

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Recital 48

Text proposed by the Commission

(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.

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, ***and if not possible the criteria used to determine the data storage period***, 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.

Or. en

Amendment 480

Louis Michel

Proposal for a regulation

Recital 48

Text proposed by the Commission

(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.

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. ***The level of detail of the information relating to the period for which the personal data will be stored may vary depending on the particular circumstances.*** Where ***it is possible, it may be expressed with a particular timing but otherwise, a reference to a term, such as prescription rules, will be enough.*** here 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.

Or. en

Amendment 481

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 48

Text proposed by the Commission

(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.

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, ***the estimated period of time for which the*** 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.

Or. en

Amendment 482

Sophia in 't Veld

Proposal for a regulation

Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) The controller or processor should publish information on how often personal data has been requested by police and justice authorities, from which

countries these requests originated, and how often those requests were fully or partially refused.

Or. en

Amendment 483

Axel Voss

Proposal for a regulation

Recital 51

Text proposed by the Commission

(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 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.

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, *the criteria which may be used to determine for how long the data will be stored for each purpose*, which recipients receive the data, what is the logic of the data that are undergoing the 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.

Or. en

Justification

Taken from IMCO-Opinion.

Amendment 484
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 51

Text proposed by the Commission

(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 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.

Amendment

(51) Any person should have the right of access to **personal** 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 **personal** data are processed, for what period, which recipients receive the **personal** data, what is the logic of the **personal** data that are 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 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.

Or. en

Amendment 485
Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation
Recital 51

Text proposed by the Commission

(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

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 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.

know and obtain communication in particular for what purposes the data are processed, for what period, ***and if not possible the criteria used to determine the data storage period***, which recipients receive the data, what is the logic of the data that are undergoing the 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.

Or. en

Amendment 486
Louis Michel

Proposal for a regulation
Recital 51

Text proposed by the Commission

(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 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.

Amendment

(51) Any person should have the right of access to ***personal*** 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 ***personal*** data are processed, for what period, which recipients receive the ***personal*** data, what is the logic of the ***personal*** data that are undergoing the 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, ***for example***, trade secrets ***such as algorithms used***,

However, the result of these considerations should not be that all information is refused to the data subject.

protection of network and information security 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.

Or. en

Amendment 487

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 51

Text proposed by the Commission

(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 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.

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 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 *other natural persons*. However, the result of these considerations should not be that all information is refused to the data subject.

Or. en

Amendment 488

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 52

Text proposed by the Commission

(52) The controller should use all reasonable measures to verify the identity of a data subject that requests access, in particular in the context of online services and online identifiers. A controller should not retain personal data for the unique purpose of being able to react to potential requests.

Amendment

(52) The controller should use all reasonable measures ***within the context of the product or service being provided, or otherwise within the context of the relationship between the controller and the data subject, and the sensitivity of the personal data being processed*** to verify the identity of a data subject that requests access, in particular in the context of online services and online identifiers. A controller should not retain ***nor be forced to gather*** personal data for the unique purpose of being able to react to potential requests.

Or. en

Justification

In some cases, complying with a right of access requirement will have as a consequence that the data controller will need to gather (more) personal data from the data subject in order to comply with the request. In line with the data minimisation principle, this potential consequence should be avoided.

Amendment 489
Alexander Alvaro

Proposal for a regulation
Recital 53

Text proposed by the Commission

(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

Amendment

(53) Any person should have the right to have personal data concerning them rectified. 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 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 them.

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 them.

Or. en

Justification

The ‘right to be forgotten’ is a right that is not provided for by this Regulation. By using this term, data subjects are promised a right they in practice do not have. The right to erasure must be as strong as possible and take into account the possible difficulties to remove personal data on the Internet. This should be done by strengthening the right to erasure instead of promising non-existing rights through misleading titles.

Amendment 490

Sylvie Guillaume, Françoise Castex

Proposal for a regulation

Recital 53

Text proposed by the Commission

(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

Amendment

(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

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 them.

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 them.

Or. en

Amendment 491
Claude Moraes, Glenis Willmott

Proposal for a regulation
Recital 53

Text proposed by the Commission

(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

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 them.

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 the purposes of processing health data for health purposes**, 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.

Or. en

Justification

The right to be forgotten should not apply to personal data concerning health where that data is processed for healthcare purposes as laid down under Article 81 (a). It is in the vital interests of the data subject to keep a complete record of their health in order to deliver the most appropriate care and treatments during the course of their life.

Amendment 492 **Adina-Ioana Vălean, Jens Rohde**

Proposal for a regulation **Recital 53**

Text proposed by the Commission

(53) Any person should have the right to have personal data concerning them

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 them.

rectified. 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 them.

Or. en

Amendment 493
Carmen Romero López

Proposal for a regulation
Recital 53

Text proposed by the Commission

(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

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 them.

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 them.

Nevertheless, in these cases, and insofar as the subject's fundamental freedoms, rights and interests should prevail, he/she should be able to exercise the right to oppose the creation of links, copies or reproductions of such data where they are not necessary for these purposes.

Or. es

Justification

The exceptions to the right to be forgotten include situations which are typical of the digital environment, in which the transmission of this data via internet and by means of search engines can cause the subject a harm which they should not be forced to endure. Dissemination and universal access are limited in cases where the subject's fundamental freedoms, rights and interests prevail, provided that they do not constitute a primary part of the argument justifying the conservation of the original data.

Amendment 494
Sarah Ludford, Charles Tannock

Proposal for a regulation
Recital 53

Text proposed by the Commission

(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 them.

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 ***health purposes in accordance with Article 81***, 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.

Or. en

Justification

To make this consistent with the wording of Article 81.

Amendment 495

Anna Hedh, Marita Ulvskog, Christel Schaldemose

Proposal for a regulation

Recital 53

Text proposed by the Commission

(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 them.

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 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.

Or. en

Amendment 496

Sabine Verheyen, Axel Voss, Kinga Gál, Monika Hohlmeier

Proposal for a regulation
Recital 53

Text proposed by the Commission

(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 them.

Amendment

(53) Any person should have the right to have personal data concerning them rectified and ***the right to have such personal data erased*** 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 ***health purposes in accordance with Article 81***, 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 regulatory requirement to retain this data, or for the prevention of financial crime.***

Or. en

Amendment 497

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

Proposal for a regulation

Recital 53

Text proposed by the Commission

(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 them.

Amendment

(53) Any person should have the right to have personal data concerning them rectified and ***the right to have such personal data erased*** 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 ***health purposes in accordance with Article 81***, 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 regulatory requirement to retain this data, or for the prevention of financial crime.***

Or. en

Amendment 498
Axel Voss

Proposal for a regulation
Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) A data subject should always have the option to give broad consent for his or her data to be used for historical, statistical or scientific research purposes, and to withdraw consent at any time.

Or. en

Justification

Broad consent is a necessity for conducting research in fields of medicine that rely on biobanks and tissue banks among other forms. Biobanks are collections of biological samples and data, accumulated over a period of time, used for medical research and diagnostic purposes. The option of broad consent given to a data subject at their first encounter with a doctor, allows the researchers to use this data without having to go back to the data subject for every minor research they are conducting.

Amendment 499
Alexander Alvaro

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

deleted

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.

Or. en

Amendment 500

Adina-Ioana Vălean, Jens Rohde

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.

deleted

Or. en

Amendment 501
Sylvie Guillaume, Françoise Castex

Proposal for a regulation
Recital 54

Text proposed by the Commission

(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.

Amendment

(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 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.

Or. en

Amendment 502
Jan Mulder

Proposal for a regulation
Recital 54

Text proposed by the Commission

(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

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 *where possible, taking into account the specific context in which the data was publicized and the responsibilities of the*

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.

data subject and processor, to erase personal data made public. The processor should inform where this is possible 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.

Or. en

Amendment 503
Carmen Romero López

Proposal for a regulation
Recital 54

Text proposed by the Commission

(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

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 cases where the measures taken by the controller have been ineffective or where the latter has disappeared, ceased to exist or cannot be contacted by the data subject, the latter should be entitled to oblige the third party***

party.

to erase any link to the data, or copies or reproductions thereof. 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.

Or. es

Justification

Where it is impossible to obtain satisfaction of the right to be forgotten from the controller, the subject should be able to deal directly with the third party handling their personal data.

Amendment 504

Louis Michel

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.

deleted

Or. en

Amendment 505
Jan Mulder

Proposal for a regulation
Recital 55

Text proposed by the Commission

(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.

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. ***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.

Or. en

Justification

It should be made easier for consumers to take their data from one processor/controller to another one. This would increase competition.

Amendment 506
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 55

Text proposed by the Commission

(55) To further strengthen the control over their own data and their right of access,

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.***

data subjects should have the right, where personal data are processed by electronic means and in a structured and commonly used, ***freely available, interoperable, and where possible open source*** 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. ***Providers of information society services should not make the transfer of those data mandatory for the provision of their services. Social networks should be encouraged as much as possible to store data in a way which permits efficient data portability for data subjects.***

Or. en

Amendment 507 **Françoise Castex**

Proposal for a regulation **Recital 56**

Text proposed by the Commission

(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.

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 ***or official authority***, 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

Or. en

Justification

In order to restore the balance between data controller and data subject, objection to data processing based on legitimate interest must always be allowed and not just based on the particular situation of a data subject.

Amendment 508 **Cornelia Ernst**

Proposal for a regulation **Recital 57**

Text proposed by the Commission

(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..

Amendment

(57) Where personal data are processed for ***one or more specific purposes***, the data subject should have the right to object to such processing ***in advance***, free of charge and in a manner that can be easily and effectively invoked. ***Where consent has originally been used as a legal purpose for the processing, the controller should at regular intervals inform the data subject of his rights under Articles 15, 17, 18 and 19.***

Or. en

Amendment 509 **Françoise Castex**

Proposal for a regulation **Recital 57**

Text proposed by the Commission

(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..

Amendment

(57) Where personal data are processed ***based on the legitimate interests of the data controller***, the data subject should have the right to object to such processing ***in advance***, free of charge and in a manner that can be easily and effectively invoked.

Or. en

Justification

It is necessary to have a strong right of objection against all data processing based on legitimate interests and in line with the new recital 39(a) that excludes direct marketing as a legitimate interest.

Amendment 510 **Dimitrios Droutsas**

Proposal for a regulation **Recital 57**

Text proposed by the Commission

(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..

Amendment

(57) Where personal data are processed for ***one or more specific purposes***, the data subject should have the right to object to such processing ***in advance***, free of charge and in a manner that can be easily and effectively invoked.

Or. en

Amendment 511 **Nathalie Griesbeck**

Proposal for a regulation **Recital 57 a (new)**

Text proposed by the Commission

Amendment

(57a) Opt-out lists consist of the names of persons who have expressed the wish not to receive advertising or targeted commercial messages and are managed by professional organisations or consumers' associations. The public authorities should strongly encourage firms to use these lists. In the context of the use of personal data for direct marketing purposes, the consumer should always be told whether or not the firm in question has signed up to an opt-out list. The information should include details of

the purpose of the list and the procedure for joining it.

Or. fr

Justification

Opt-out lists can be a particularly effective direct marketing tool. However, they are still little known. Increased use of these lists should be encouraged.

Amendment 512
Alexander Alvaro

Proposal for a regulation
Recital 58

Text proposed by the Commission

(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.

Amendment

(58) A data subject should only be subjected to a measure based on profiling, if the processing is based on the grounds of lawful processing and is accompanied by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests. Every natural person should have the right to object to being subject to measures based on profiling.

Or. en

Amendment 513
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon

Proposal for a regulation
Recital 58

Text proposed by the Commission

(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.

Amendment

(58) Every natural ***and legal*** person should have the right not to be subject to a measure which is based on profiling by means of automated processing ***and which produces legal effects concerning that natural or legal person or significantly affects that natural or legal person.*** ***Actual effects should be comparable in their intensity to legal effects to fall under this provision. This is not the case for measures relating to commercial communication, like for example in the field of customer relationship management or customer acquisition.*** However, ***a*** measure ***based on profiling by automated data processing and which produces legal effects concerning a natural or legal person or significantly affects a natural person*** 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.

Or. en

Amendment 514

Louis Michel

Proposal for a regulation

Recital 58

Text proposed by the Commission

(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***

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 ***and which produces***

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.

legal effects concerning that natural person or significantly affects that natural person. Actual effects should be comparable in their intensity to legal effects to fall under this provision. This is not the case for measures relating to commercial communication, like for example in the field of customer relationship management or customer acquisition. However, a measure based on profiling by automated data processing and which produces legal effects concerning a natural person or significantly affects a natural person 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.

Or. en

Amendment 515

Sabine Verheyen, Axel Voss, Monika Hohlmeier

Proposal for a regulation

Recital 58

Text proposed by the Commission

(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

Amendment

(58) Every natural **and legal** person should have the right not to be subject to a measure which is based on profiling by means of automated processing **and which produces legal effects concerning that natural or legal person or significantly affects that natural or legal person.** *Actual effects should be comparable in their intensity to legal effects to fall under this provision. This is not the case for measures relating to commercial*

subject and the right to obtain human intervention and that such measure should not concern a child.

communication, like for example in the field of customer relationship management or customer acquisition. However, a measure *based on profiling by automated data processing and which produces legal effects concerning a natural or legal person or significantly affects a natural person* 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.

Or. en

Amendment 516
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 59

Text proposed by the Commission

(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*

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 *specific* criminal offences or of breaches of ethics for regulated professions, other *specific and well-defined public interests* of the

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 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.

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 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.

Or. en

Amendment 517
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 59

Text proposed by the Commission

(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 compliance with requirements set out by the Charter of Fundamental Rights of the

Amendment

(59) Restrictions on specific principles and on the rights of information, access, rectification and erasure, 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 compliance with requirements set out by the Charter of Fundamental Rights of the European Union and by the European

European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Convention for the Protection of Human Rights and Fundamental Freedoms.

Or. en

Amendment 518

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 60

Text proposed by the Commission

(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.

Amendment

(60) **Overall** 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 order to ensure accountability***. In particular, the controller should ensure and be obliged to demonstrate the compliance of each processing operation with this Regulation.

Or. en

Amendment 519

Alexander Alvaro

Proposal for a regulation

Recital 61

Text proposed by the Commission

(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

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 protection by default.

controller should ***persistently respect the autonomous choices of data subjects and*** adopt internal policies and implement appropriate measures, which meet in particular the principles of data protection by design and data protection by default.

Or. en

Amendment 520

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 61

Text proposed by the Commission

(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.***

Amendment

(61) ***To meet consumer and business expectations around*** the protection of the rights and freedoms of data subjects with regard to the processing of personal data, appropriate organisational measures ***should be*** 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. ***Measures having as an objective to increase consumer information and ease of choice should be encouraged, based on industry cooperation and favouring innovative solutions, products and services.***

Or. en

Justification

The way to integrate privacy and data protection into internal processes should remain flexible and leave room for adaptation. The PbD concept should be technology-neutral, not introduce specific technology or operational mandates and not contribute to a differentiation between ICT and other sectors.

Amendment 521
Anna Maria Corazza Bildt, Carlos Coelho

Proposal for a regulation
Recital 61 a (new)

Text proposed by the Commission

Amendment

(61a) It is important to engage in a structured dialogue with the industry in order to implement this Regulation. The industry should take its shared responsibility to come up with innovative solutions, products and services in order to increase the safeguards on protection of personal data, in particular for children, for example through codes of conducts and monitoring mechanisms. Self-regulatory efforts do not exempt the industry from applying this Regulation.

Or. en

Amendment 522
Adina-Ioana Vălean, Jens Rohde

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.

Or. en

Amendment 523
Louis Michel

Proposal for a regulation
Recital 62

Text proposed by the Commission

(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.

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 of the processing jointly with other controllers or where a processing operation is carried out on behalf of a controller.

Or. en

Amendment 524

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

Proposal for a regulation
Recital 62

Text proposed by the Commission

(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.

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 of the processing jointly with other controllers or where a processing operation is carried out on behalf of a controller.

Amendment 525
Axel Voss

Proposal for a regulation
Recital 62 a (new)

Text proposed by the Commission

Amendment

(62a) Exchanges of data between the entity responsible and a party processing data under contract do not constitute communication of data which is subject to the further preconditions for admissibility laid down in the regulation. The joint responsibility arising from a contractual agreement and the uniform level of protection created thereby guarantees careful treatment of personal data. Entities responsible and parties processing data under contract should therefore not be regarded as recipients.

Or. de

Amendment 526
Cornelia Ernst

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

(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 ***of data subjects***, 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.

controller is *an enterprise which processes personal data of less than 500 data subjects or is* a public authority or body 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.

Or. en

Amendment 527

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 63

Text proposed by the Commission

(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.

Amendment

(63) Where a controller not established in the Union is processing personal data of data subjects residing 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 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 *the competent* supervisory authority.

Or. en

Amendment 528

Jan Mulder

Proposal for a regulation

Recital 65

Text proposed by the Commission

(65) In order to demonstrate compliance 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.

Amendment

(65) ***Each controller and processor should be obliged to co-operate with the supervisory authority***. In order to demonstrate compliance with this Regulation, the controller or processor should document processing *operations if one of the processing operations as mentioned in Article 33(2) is being executed; the controller or processor should* and make *available* documentation, on request *by the DPA* , so that it might serve for monitoring those processing operations.

Or. en

Justification

It is up to the controller or processor to provide the DPA or data subject with information in case this is necessary. This Regulation should not be too prescriptive and ask for a documentation of all processing operations. If needed the responsibility to make available documentation lays with the processor or controller.

Amendment 529
Wim van de Camp

Proposal for a regulation
Recital 65

Text proposed by the Commission

(65) In order to demonstrate compliance 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.

Amendment

(65) In order to demonstrate compliance with this Regulation, the controller *should document processing operations, which following a risk assessment pose a high degree of risk to the fundamental rights of the data subjects, in particular their right to privacy*. Each controller 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. ***Each processor should provide the controller with all information necessary to meet his obligations under this Regulation.***

Or. en

Justification

This amendment matches the amendments to Article 28. The Regulation removes administrative burdens of Directive 95/46, such as notification of data processing to the supervisory authority. However, it replaces those with costly mandatory compliance burdens. Such compliance burdens should be only justifiable for high-risk data processing. Similar to Directive 95/46, the Regulation should have exemptions from such burdens. However, the size of organizations is not the right criterion for such exemptions. Exemptions should be risk-based. Data processors should only have derivative obligations with respect to documentation of data processing. Therefore, they should be required to provide all information necessary for the controller to meet his obligations under this Regulation.

Amendment 530

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 65

Text proposed by the Commission

(65) In order to demonstrate compliance 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.

Amendment

(65) In order to demonstrate compliance with this Regulation, the controller should document each processing operation ***under its responsibility***. Each controller 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.

Or. en

Amendment 531

Louis Michel

Proposal for a regulation
Recital 65

Text proposed by the Commission

(65) In order to demonstrate compliance 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.

Amendment

(65) In order to demonstrate compliance with this Regulation, the controller ***should maintain a description of processing operations under its responsibility***. Each controller 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.

Or. en

Amendment 532

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

Proposal for a regulation
Recital 65

Text proposed by the Commission

(65) In order to demonstrate compliance 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.

Amendment

(65) In order to demonstrate compliance with this Regulation, the controller should document each processing operation ***under its responsibility***. Each controller 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.

Or. en

Amendment 533

Csaba Sógor

Proposal for a regulation
Recital 66

Text proposed by the Commission

(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.

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, technological neutrality, interoperability and innovation should be promoted, and, where appropriate, third countries ***should be encouraged to cooperate.***

Or. hu

Amendment 534

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 66

Text proposed by the Commission

(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***

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, technological neutrality,

promote technological neutrality, interoperability and innovation, *and*, where appropriate, *cooperate with* third countries.

interoperability and innovation *should be promoted, also*, where appropriate, *towards* third countries.

Or. en

Amendment 535

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 66

Text proposed by the Commission

(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.*

Amendment

(66) In order to maintain security and to prevent processing in breach of this Regulation, the controller 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.

Or. en

Amendment 536

Jan Mulder

Proposal for a regulation

Recital 67

Text proposed by the Commission

(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 be 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.

Amendment

(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. ***The responsibility hereof should rest with the controller.*** The individuals with 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.

Or. en

Justification

Controllers do not necessarily become aware of a data breach within a set period of time. It is important that the DPA will be noticed without undue delay and that the processor or controller can demonstrate what it has done after discovering the data breach.

Amendment 537

Axel Voss

Proposal for a regulation

Recital 67

Text proposed by the Commission

(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 be 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

Amendment

(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. Where this cannot be achieved within **a reasonable time period**, 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

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.

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.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 538 **Dimitrios Droutsas**

Proposal for a regulation **Recital 67**

Text proposed by the Commission

(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 be 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

Amendment

(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 **72 hours**. Where this cannot be achieved within **72 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.

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.

Or. en

Amendment 539

Lidia Joanna Geringer de Oedenberg

Proposal for a regulation

Recital 67

Text proposed by the Commission

(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

Amendment

(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 ***of*** a breach ***adversely affecting the personal data or privacy of a data subject***, the controller should notify ***that*** breach to the supervisory authority without undue delay and, where feasible, within **72** hours. Where ***such notification is not possible*** within **72** hours, an explanation of the reasons for the delay should accompany the notification. The individuals whose

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.

personal data could be adversely affected by **similar breaches** should be notified **thereof** without undue delay in order **for them to be able** 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 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 **possibility** 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 **be an argument to** justify a longer delay.

Or. pl

Amendment 540 **Csaba Sógor**

Proposal for a regulation **Recital 67**

Text proposed by the Commission

(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

Amendment

(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 be 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.

authority *in the country where it is based* without undue delay and, where feasible, within *one working day*. Where this cannot be achieved within *one working day*, 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.

Or. hu

Justification

If a number of hours is stipulated, implementation and complying with the provision would in some cases be difficult. 72 hours would be too much and may in some cases mean three working days. One working day, however, gives a suitable deadline for immediate action.

Amendment 541

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 67

Text proposed by the Commission

(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 be 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.

Amendment

(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. 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 542
Alexander Alvaro

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, ***and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a data protection impact assessment should be carried out by the controller or processor prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.***

Amendment

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished.

Or. en

Justification

As Recital 70 rightly mentions that the general obligation to notify processing of personal data to the supervisory authorities produces administrative and financial burdens, it should not be replaced by a similar obligation. Data controllers shall rather take part in consultations and produce detailed impact assessments which need to be provided only on request to the supervisory authority.

Amendment 543
Jan Mulder

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. **While** this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a data protection impact assessment should be carried out by the controller or processor prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.

Amendment

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities ***allowing the Member States to exempt processing, which was unlikely to pose risks to the data subjects, from this regulation.*** This obligation produces administrative and financial burdens **and** it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a data protection impact assessment should be carried out by the controller or processor prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.

Or. en

Amendment 544
Wim van de Camp

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. **While** this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present **specific** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a **data protection** impact assessment should be carried out by the controller **or processor** prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.

Amendment

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities **allowing the Member States to exempt processing, which were unlikely to pose risks to the data subjects, from this obligation**. This obligation produces administrative and financial burdens **and** it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present **high degree of** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a **privacy** impact assessment should be carried out by the controller prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.

Or. en

Justification

This amendment matches the amendment to Article 33 and the proposed risk-based approach. Furthermore, reference is made to the possibility under article 18 of Directive 95/46/EC to exempt low-risk processing from the notification obligation. The Commission's proposal did not contain such exemption. The proposed risk-based approach, especially the amendments to Articles 28 and 33 re-inserts this exemption.

Amendment 545

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 70

Text proposed by the Commission

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, ***and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a data protection impact assessment should be carried out by the controller or processor prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.***

Amendment

(70) Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished.

Or. en

Amendment 546
Alexander Alvaro

Proposal for a regulation
Recital 71

Text proposed by the Commission

(71) This should in particular apply to newly established large scale filing systems, which aim at processing a considerable amount of personal data at regional, national or supranational level and which could affect a large number of data subjects.

Amendment

deleted

Amendment 547
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 71

Text proposed by the Commission

Amendment

(71) This should in particular apply to newly established large scale filing systems, which aim at processing a considerable amount of personal data at regional, national or supranational level and which could affect a large number of data subjects.

deleted

Or. en

Amendment 548
Alexander Alvaro

Proposal for a regulation
Recital 71 a (new)

Text proposed by the Commission

Amendment

(71a) 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.

Or. en

Amendment 549
Alexander Alvaro

**Proposal for a regulation
Recital 71 b (new)**

Text proposed by the Commission

Amendment

(71b) Every data controller should first conduct a risk analysis of data processing operations, analyzing the specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, assessing which obligations laid down in this Regulation need to be complied with. The risk analysis should be updated, if any of the mentioned criteria change and it should be documented, if its results do not require a data protection impact assessment to be carried out.

Or. en

**Amendment 550
Alexander Alvaro**

**Proposal for a regulation
Recital 71 c (new)**

Text proposed by the Commission

Amendment

(71c) 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.

Or. en

Amendment 551
Cornelia Ernst

Proposal for a regulation
Recital 72

Text proposed by the Commission

(72) There are circumstances under which it may be *sensible and economic* that the subject of a data protection impact assessment should be broader than a single project, for example where public authorities or bodies intend to establish a common application or processing platform or where several controllers plan to introduce a common application or processing environment across an industry sector or segment or for a widely used horizontal activity.

Amendment

(72) There are circumstances under which it may be *necessary* that the subject of a data protection impact assessment should be broader than a single project, for example where public authorities or bodies intend to establish a common application or processing platform or where several controllers plan to introduce a common application or processing environment across an industry sector or segment or for a widely used horizontal activity.

Or. en

Amendment 552
Louis Michel

Proposal for a regulation
Recital 74

Text proposed by the Commission

(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

Amendment

deleted

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.

Or. en

Amendment 553
Cornelia Ernst

Proposal for a regulation
Recital 74

Text proposed by the Commission

(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.

Amendment

(74) Where a data protection impact assessment indicates that processing operations *might* 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.

Or. en

Amendment 554
Wim van de Camp

Proposal for a regulation
Recital 74

Text proposed by the Commission

(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.

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 *controller* should *document the privacy impact assessment and make such assessment available to the supervisory authority upon request. The supervisory authority* should *be consulted* 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.

Or. en

Justification

This amendment matches the amendments to Article 34

Amendment 555
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Recital 74

Text proposed by the Commission

(74) Where a data protection impact assessment indicates that processing operations involve a high degree of specific risks to the rights and freedoms of

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.***

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.

Or. en

Justification

Consultation should take place between supervisory authorities and data controllers and processors where there is an indication that processing operations involve a high degree of specific risks to the rights and freedom of data subjects and the risky processing might not be in compliance with this Regulation.

Amendment 556
Alexander Alvaro

Proposal for a regulation
Recital 74 a (new)

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 557

Axel Voss

Proposal for a regulation

Recital 74 a (new)

Text proposed by the Commission

Amendment

(74a) The data protection organisation or the data protection officer monitors the processing of personal data by the controller and the processor in order to advise the controller and the processor on compliance with this Regulation; he or she thereby should assist in ensuring that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations.

Or. en

Amendment 558

Axel Voss

Proposal for a regulation

Recital 74 b (new)

Text proposed by the Commission

Amendment

(74b) Data protection organisations or data protection officers act independently, which means that they do not receive instructions as regards the exercise of their function as authority assigned for data protection. The data protection organisation or the data protection officer should directly report to the management

of the controller or the processor.

Or. en

Justification

Recital refers to Art. 36 - paragraph 2.

Amendment 559

Cornelia Ernst

Proposal for a regulation

Recital 75

Text proposed by the Commission

(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.

Amendment

(75) Where the processing is carried out in the public sector or where, in the private sector, processing is carried out by ***an enterprise and relates to more than 500 data subjects per year, or where its core activities*** 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.

Or. en

Amendment 560

Jan Mulder

Proposal for a regulation

Recital 75

Text proposed by the Commission

(75) Where the processing is carried out in the public sector or where, in the private

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.

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 ***or a team of professionals*** 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. ***However, final responsibility should stay with the management of an organization.***

Or. en

Amendment 561
Wim van de Camp

Proposal for a regulation
Recital 75

Text proposed by the Commission

(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.

Amendment

(75) Where the processing is carried out in the public sector or where processing is carried out by enterprise ***which relates to its core activities and poses a high degree of risk to the rights and freedoms of data subjects especially their right to privacy, such as the*** regular and systematic monitoring ***of data subjects, irrespective of the measures taken to mitigate such risks,*** a person should assist the controller 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. ***In any other case, the appointment of such a person should be optional. The data protection officer should be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law***

and practices and ability to fulfil his or her tasks. The necessary level of expert knowledge should be determined in particular according to the data processing carried out and the protection required for the personal data processed by the controller.

Or. en

Justification

This amendment matches the amendments to Article 35.

Amendment 562 **Dimitrios Droutsas**

Proposal for a regulation **Recital 75**

Text proposed by the Commission

(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.

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, ***it relates to more than 500 data subjects per year***, 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.

Or. en

Amendment 563

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation

Recital 75

Text proposed by the Commission

(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.

Amendment

(75) Where the processing is carried out in the public sector or where, in the private sector, processing is carried out by an enterprise **which has at least 50 staff or which processes the data of at least 250 data subjects**, 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. ***In order to ensure the independence of data protection officers, they should enjoy special protection against dismissal and discrimination in the performance of their duties, which should be comparable with national provisions on the protection of employees' representatives. They should be appointed only with the consent of the representatives of the business's employees. In addition, data protection officers should have opportunities for further training and in-service training at the expense of the controller or of the contracted processor.***

Or. de

Amendment 564
Csaba Sógor

Proposal for a regulation
Recital 75

Text proposed by the Commission

(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.

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 relates to more than 249 data subjects per year***, 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. ***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. ***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.***

Or. hu

Justification

The definition of 'large enterprise' presupposes more than 249 employees. A limit of 500 for individual cases would be too high. For the sake of consistency, data processing relating to

more than 249 people shall be the benchmark.

Amendment 565

Anna Hedh, Marita Ulvskog

Proposal for a regulation

Recital 75

Text proposed by the Commission

(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.

Amendment

(75) Where the processing is carried out in the public sector or where, in the private sector, processing is carried out by ***an*** 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. ***To safeguard their independence, data protection officers should when performing their duties enjoy special protection against dismissal and discrimination, comparable to trade union or workers representatives under national law and practices. Data protection officers should be appointed with the consent of the work place representation.***

Or. en

Amendment 566

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 75

Text proposed by the Commission

(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.

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 ***or an organisation*** should assist the controller or processor to monitor internal compliance with this Regulation. Such data protection officers ***or data protection organisations*** should be in a position to perform their duties and tasks independently.

Or. en

Amendment 567
Csaba Sógor

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 organizational 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 full knowledge of the role and competence of an employee representative. 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.

Or. hu

Justification

The ability to cooperate cannot be properly assessed and is more a question of general obligation in the workplace. However, knowledge of the competence of an employee representative is vital in issues concerning data processing.

Amendment 568

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 75 a (new)

Text proposed by the Commission

Amendment

(75a) Where the data protection officer is employed by the controller or processor, in order to guarantee the independence, the data protection officer should enjoy particular protection against dismissal and discrimination when performing his duties, comparable to worker representatives in accordance with national law and practices. He should be appointed with the consent of the workplace representation. The data protection officer should have the opportunity to follow regular training within their regular working time in relation to their duties, without loss of pay. The costs of the training should be borne by the employer.

Or. en

Amendment 569

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation
Recital 76

Text proposed by the Commission

(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.

Amendment

(76) Associations or other bodies representing categories of controllers should be encouraged, ***with the consent of the representatives of the business's 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.

Or. de

Amendment 570
Alexander Alvaro

Proposal for a regulation
Recital 77

Text proposed by the Commission

(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.***

Amendment

(77) In order to enhance transparency and compliance with this Regulation, ***supervisory authorities should award controllers and processors which properly apply this Regulation with the same standardised data protection mark, the ‘European Data Protection Seal’.*** ***When certifying controllers, supervisory authorities should apply the same standards but decide freely on the fees for the certification. The European Data Protection Seal should create trust among data subjects, legal certainty for controllers and at the same time export European data protection standards by allowing non-European companies to more easily enter European markets by being certified.***

Or. en

Amendment 571
Jan Mulder

Proposal for a regulation
Recital 77

Text proposed by the Commission

(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.

Amendment

(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 assess the level of data protection of relevant products and services.

Or. en

Amendment 572
Axel Voss

Proposal for a regulation
Recital 77

Text proposed by the Commission

(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.

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. ***After a certification procedure certified enterprises would be classified in having sufficient data protection guarantees installed for appropriate technical security and organisational measures and procedures regarding the requirements of this Regulation to ensure the protection of the right of the data subject.***

Or. en

Amendment 573
Dimitrios Droutsas

Proposal for a regulation
Recital 77

Text proposed by the Commission

(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***.

Amendment

(77) In order to enhance transparency and compliance with this Regulation, ***supervisory authorities should award controllers and processors which properly apply this Regulation with the same standardised data protection mark, the ‘European Data Protection Seal’.*** ***When certifying controllers, supervisory authorities should apply the same standards; the fee for the certification should be the same in all Member States and should be elaborated by the European Data Protection Board. The European Data Protection Seal should create trust among*** data subjects, ***legal certainty for controllers and at the same time export European data protection standards by allowing non-European companies to more easily enter European markets by being certified.***

Or. en

Amendment 574
Nathalie Griesbeck

Proposal for a regulation
Recital 77 a (new)

Text proposed by the Commission

Amendment

(77a) With a view to the more effective mutual recognition of certificates concerning the storage of health data and the establishment of a European certification mechanism, the European

Data Protection Committee should draw up, in cooperation with national supervisory authorities, guidelines and recommendations for the harmonisation of national health data storage certification systems.

Or. fr

Amendment 575
Manfred Weber

Proposal for a regulation
Recital 78 a (new)

Text proposed by the Commission

Amendment

(78a) In order to provide effective protection for personal data, it is necessary, with reference to the territorial scope of this regulation, that it should also apply to processing, storage and use in third countries of data originating in Europe.

Or. de

Justification

Data processors should not be able to find methods of evasion of the rules in third countries with less stringent or different levels of data protection. European data must be subject to European data protection standards all over the world; this is necessary – among other reasons – in the interests of Europe’s competitiveness.

Amendment 576
Cornelia Ernst

Proposal for a regulation
Recital 79

Text proposed by the Commission

Amendment

(79) This Regulation is without prejudice to international agreements concluded

(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.

between the Union and third countries regulating the transfer of personal data including appropriate safeguards for the data subjects *ensuring an equivalent level of protection for the fundamental rights of citizens.*

Or. en

Amendment 577
Cornelia Ernst

Proposal for a regulation
Recital 80

Text proposed by the Commission

(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.

Amendment

(80) The Commission may decide with effect for the entire Union that certain third countries, or a territory 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. *The Commission may also decide, having given notice and a complete justification to the third country, to revoke such a decision.*

Or. en

Amendment 578
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 83

Text proposed by the Commission

(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.***

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 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 an equal respect of the data subject rights as in intra-EU processing, in particular relating to purpose limitation, right to access, rectification, erasure and compensation.***

Or. en

Amendment 579

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 84

Text proposed by the Commission

(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.

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. ***In some scenarios, it may be appropriate to***

encourage controllers and processors to provide even more robust safeguards via additional contractual commitments that supplement standard protection clauses.

Or. en

Amendment 580

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 85

Text proposed by the Commission

(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.

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 **all** essential principles and enforceable rights to ensure appropriate safeguards for transfers or categories of transfers of personal data.

Or. en

Amendment 581

Cornelia Ernst

Proposal for a regulation

Recital 86

Text proposed by the Commission

(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

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 or if they are to be the recipients.

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 into full account the balance of interest of the fundamental rights and interests of the data subject.***

Or. en

Amendment 582 **Cornelia Ernst**

Proposal for a regulation **Recital 87**

Text proposed by the Commission

(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.

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. ***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.***

Or. en

Amendment 583
Wim van de Camp

Proposal for a regulation
Recital 87

Text proposed by the Commission

(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.

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, ***between bodies responsible for fighting fraud in sports***, or to competent authorities for the prevention, investigation, detection and prosecution of criminal offences.

Or. en

Justification

The fight against fraud in sports, such as match fixing and doping, is an important public interest that requires coordinated, international interventions among all responsible instances, including public enforcement agencies and sports bodies.

Amendment 584
Axel Voss

Proposal for a regulation
Recital 87

Text proposed by the Commission

(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

Amendment

(87) These derogations should in particular apply to data transfers required and necessary for the protection of important grounds of public interest, ***which should include international data transfers on the basis of international agreements or arrangements to third country authorities***

supervisory authorities, between services competent for social security matters, or to competent authorities for the prevention, investigation, detection and prosecution of criminal offences.

for example such as competition authorities, tax or customs administrations, financial supervisory authorities, between services competent for social security matters, ***between bodies responsible for fighting fraud in sports***, or to competent authorities for the prevention, investigation, detection and prosecution of criminal offences. ***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 to be carried out.***

Or. en

Justification

Taken from ITRE-Opinion and added that together with a proposed amendment to Art. 45 paragraph 5, the proposed clarification to the recital would remove uncertainty if international data transfers between regulatory authorities are permitted 'for the protection of important grounds of public interest'.

Amendment 585 Dimitrios Droutsas

Proposal for a regulation Recital 87

Text proposed by the Commission

(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.

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 ***public*** authorities for the prevention, investigation, detection and prosecution of criminal offences.

Amendment 586
Louis Michel

Proposal for a regulation
Recital 87

Text proposed by the Commission

(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.

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, ***between bodies responsible for fighting against match-fixing and fraud in sport,*** or to competent authorities for the prevention, investigation, detection and prosecution of criminal offences.

Amendment 587
Dimitrios Droutsas

Proposal for a regulation
Recital 88

Text proposed by the Commission

(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 circumstances surrounding the data transfer. For the purposes of processing for historical, statistical and scientific research purposes, the legitimate

Amendment

deleted

expectations of society for an increase of knowledge should be taken into consideration.

Or. en

Amendment 588
Jan Mulder

Proposal for a regulation
Recital 88

Text proposed by the Commission

(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 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.*

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 circumstances surrounding the data transfer. For *instance this would be the case if* the purposes of processing *are* historical, statistical *or* scientific research.

Or. en

Amendment 589
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 88

Text proposed by the Commission

(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 circumstances surrounding the data transfer.* For the purposes of processing for historical, statistical and scientific research

Amendment

(88) Transfers for the purposes of processing for historical, statistical and scientific research purposes *should take* the legitimate expectations of society for an increase of knowledge into consideration.

purposes, the legitimate expectations of society for an increase of knowledge *should be taken* into consideration.

Or. en

Amendment 590

Anna Hedh, Marita Ulvskog

Proposal for a regulation

Recital 88

Text proposed by the Commission

(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 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.

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

Or. en

Amendment 591

Sophia in 't Veld

Proposal for a regulation

Recital 89

Text proposed by the Commission

(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

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.

Union once this data has been transferred,
to the extent that the processing is not massive, not repetitive and not structural.

Or. en

Amendment 592
Dimitrios Droutsas

Proposal for a regulation
Recital 89

Text proposed by the Commission

(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.

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 **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.

Or. en

Amendment 593
Sophia in 't Veld

Proposal for a regulation
Recital 90

Text proposed by the Commission

(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

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 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.***

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. ***In cases where controllers or processors are confronted with conflicting compliance requirements between the jurisdiction of the EU on the one hand, and that of a third country on the other, the Commission should ensure that EU 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.***

Or. en

Amendment 594

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Recital 90

Text proposed by the Commission

(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

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 instruments ***should, by default, be considered to*** 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

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.

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. ***The existence of legislation which would, even theoretically, permit extra-territorial access to European citizens' data should be considered, on its own and regardless of the application of legislation, as grounds to revoke recognition of adequacy of the data protection regime of that country or any equivalent bilateral arrangement.***

Or. en

Amendment 595

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Recital 97

Text proposed by the Commission

(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.

Amendment

(97) Where the processing of personal data 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.

Or. en

Justification

The one-stop shop principle should apply consistently to both EU and non-EU based

controllers subject to the law.

Amendment 596
Dimitrios Droutsas

Proposal for a regulation
Recital 97

Text proposed by the Commission

(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.

Amendment

(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 ***act as the single contact point for*** 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..

Or. en

Amendment 597
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Recital 97 a (new)

Text proposed by the Commission

Amendment

(97a) If people are also affected by suspected breaches of the rules by an undertaking in other Member States (e.g. as consumers or employees), they should be able to complain to the data protection authority of their choice. If a procedure based on the same ground for complaint has already been initiated in another Member State, a further data protection authority which has received a complaint may temporarily suspend the procedure.

The data protection authority which takes responsibility for the procedure must coordinate its work with that of the other authorities concerned. If legal issues are contested between the authorities concerned, the matter must be put before the Court of Justice of the EU.

Or. de

Amendment 598
Carmen Romero López

Proposal for a regulation
Recital 97 a (new)

Text proposed by the Commission

Amendment

(97a) In the event of complaints or objections from the data subject, the latter should in all cases be able to have recourse to the supervisory authority in their Member State, which should be able, if the scale of the incident so warrants, to propose a coordinated response involving several supervisory bodies and headed by the lead authority, which should take a decision which should be implemented by all the supervisory bodies involved. Any discrepancies arising amongst the supervisory bodies concerned should be resolved by the European Data Protection Board.

Or. es

Justification

This proposes a mechanism for decision-making by the supervisory authorities for use in all matters deriving from complaints made by citizens of their Member State. Where necessary, a response can be coordinated by a lead authority, with any discrepancies resolved by the European Data Protection Board. This will allow practical implementation of the system in cases arising from a complaint by a data subject.

Amendment 599
Dimitrios Droutsas

Proposal for a regulation
Recital 98

Text proposed by the Commission

(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.

Amendment

(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. en

Amendment 600
Sophia in 't Veld

Proposal for a regulation
Recital 98

Text proposed by the Commission

(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.

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. ***In case of uncertainty regarding the main establishment, the determination of the main establishment of a controller or a processor should be dealt with within the consistency mechanism at the request of a supervisory authority.***

Or. en

Amendment 601
Kinga Gál

Proposal for a regulation
Recital 99

Text proposed by the Commission

(99) While this Regulation applies also to

Amendment

deleted

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

Or. hu