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Committee on Civil Liberties, Justice and Home Affairs

2012/0011(COD)

6.3.2013

AMENDMENTS (5)

1493 - 1828

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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PE506.164v02-00

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United in diversity

EN

Amendment 1493
Alexander Alvaro

Proposal for a regulation
Article 18 – title

Text proposed by the Commission

Amendment

Right to *data portability*

Right to *obtain data*

Or. en

Justification

The 'right to data portability' is a right that is not provided for by this Regulation. By amending the title and the paragraphs, the Article corresponds with Recital 55.

Amendment 1494
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 18 – title

Text proposed by the Commission

Amendment

Right to *data portability*

Right to *obtain data*

Or. en

Amendment 1495
Dimitrios Droutsas

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured

deleted

format which is commonly used and allows for further use by the data subject.

Or. en

Amendment 1496
Louis Michel

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

deleted

Or. en

Amendment 1497
Alexander Alvaro

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. The data subject *shall have the right*, where personal data are processed by electronic means *and in a structured and commonly used format*, to obtain from the controller a copy of *data undergoing processing* in an electronic and structured format which is commonly used and allows for further use by the data subject.

1. *Where* the data subject *has provided the personal data and* where personal data are processed by electronic means, *the data subject shall have the right* to obtain from the controller a copy of *the provided personal data* in an electronic and structured format which is commonly used and allows for further use by the data subject, *without hindrance from the controller from whom the personal data are withdrawn.*

Justification

It is sensible to obtain the data one has provided the controller with.

Amendment 1498

Sari Essayah

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing ***in an electronic and structured format which is commonly used and allows for further use by the data subject.***

Amendment

1. The data subject shall, ***unless it would require a disproportionate effort by the data controller,*** have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing.

Justification

The article as it stands would create false expectations to data subjects, because a major part of personal data in the public sector is not in an electronic, structured and commonly used format. Public authorities, for instance a municipality, can have a multitude of databases and archives. If a citizen demands all personal data that the authority holds, it may require an extraordinary effort by the authority.

Amendment 1499

Nils Torvalds

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by

Amendment

1. The data subject shall have the right, where personal data are processed by

electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing *in an electronic and structured format which is commonly used and allows for further use by the data subject.*

electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing.

Or. en

Amendment 1500

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

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Where the format requested by the data subject differs from the processing format, the controller may impose a charge for conversion at a level which may not exceed the cost of the service provided at market prices.

Or. es

Justification

We feel that the most important aspect when regulating this right is not so much for the data to be processed in a structured format which is commonly used as for it to be delivered, as and when required, in a structured format which is commonly used. With this in mind, and given that the formats used for data processing are not always commonly used ones, it seems reasonable to allow for a charge to be made for converting data to one of the formats requested.

Amendment 1501
Françoise Castex, Sylvie Guillaume

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means ***and in a structured and commonly used format***, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic, ***interoperable*** and structured format which is commonly used and allows for further use by the data subject.

Or. en

Amendment 1502
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means ***and in a structured and commonly used format***, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Or. en

Justification

The use of unusual data formats by the controller cannot be a reason to deny the subject any rights.

Amendment 1503
Sonia Alfano, Gianni Vattimo

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means ***and in a structured and commonly used format***, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic, ***interoperable*** and structured format which is commonly used and allows for further use by the data subject.

Or. en

Amendment 1504
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject, ***in so far as it does not breach the intellectual property rights or legitimate private trade practices of the data controller.***

Or. en

Amendment 1505
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The data subject ***shall have the right***, where personal data are processed by electronic means ***and in a structured and commonly used format***, to obtain from the controller a copy of ***data undergoing processing*** in an electronic and structured format which is commonly used and allows for further use by the data subject.

Amendment

1. ***Where*** the data subject ***has provided the personal data and*** where personal data are processed by electronic means, ***the data subject shall have the right*** to obtain from the controller a copy of ***the provided personal data*** in an electronic and structured format which is commonly used and allows for further use by the data subject, ***without hindrance from the controller from whom the personal data are withdrawn.***

Or. en

Amendment 1506
Alexander Alvaro

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

Or. en

Justification

The right to obtain data must be applicable, regardless of the specific ground the processing

is based on.

Amendment 1507

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

Amendment

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

Or. en

Amendment 1508

Dimitrios Droutsas

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

Amendment

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

Amendment 1509
Louis Michel

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 1510

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

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

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

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

The controller from whom the personal data are withdrawn shall delete those data, unless their continued processing is covered by another legal provision in force. Union and Member State laws may regulate cases where there is a legal obligation to store data, based on objectives of public interest proportionate to the aim pursued, and respecting the essence of the right to the protection of personal data.

Or. es

Justification

Some reference needs to be made to the link between this right and the deletion of data. In principle, portability in relation to obtaining a copy of data does not necessarily entail deletion. The question of deletion may nevertheless be raised in connection with portability in its strict sense, i.e. transfer from one controller to another. However, some safeguards are needed to cover cases where it is necessary to store data.

Amendment 1511
Sonia Alfano, Gianni Vattimo

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 1512
Michèle Striffler

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data retained by an automated processing system, into another one, in an electronic format which is commonly used, ***with the exception of data prejudicial to business confidentiality which are provided in the form of hard copies,*** without hindrance from the controller from whom the personal data are withdrawn.

Or. fr

Amendment 1513
Claude Moraes, Glenis Willmott

Proposal for a regulation
Article 18 – paragraph 2 a (new)

Text proposed by the Commission

2a. Where paragraphs 1 and 2 refer to data concerning health or data processed for historical, statistical or scientific purposes, and in accordance with the conditions and safeguards set out under Articles 81 and 83, the controller may reserve the right to guarantee the validity of the data by including a form of official verification.

Amendment

Or. en

Justification

It is in the data subject's interests to guarantee the validity of sensitive data where such data is processed for health and/ or research purposes and where such data is to be transferred from the controller into another automated processing system. Introducing digital verification through eSignatures or eIDs will help to make the process more secure, and will complement action currently being developed under the Digital Agenda for Europe.

Amendment 1514

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall promote and use a freely-available and user-friendly format to exercise the data portability right.

Or. en

Amendment 1515

Sylvie Guillaume, Françoise Castex

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In exercising his or her right to portability, the data subject must inform the controller from whom the data are withdrawn that he or she also wants the data to be erased, in accordance with the provisions of Article 17.

Or. fr

Amendment 1516

Monika Hohlmeier

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Or. de

Justification

Der Regelungsgehalt ist wesentlich iSd Art 291 AEUV. Erst durch die delegierten Rechtsakte würden der Anwendungsbereich und die Umsetzung der in den Absätzen 1 und 2 aufgestellten Anforderungen für die betroffenen Rechtsanwender präzise bestimmt. Eine solche Regelung sollte soweit wie möglich in der Verordnung selbst erfolgen. Berührt wären auch technische Standards und Verfahren, die bestehende Formate und Infrastruktur in den Mitgliedstaaten berühren. Soweit die Kommission festlegen könnte, in welchem Format ein für die Verarbeitung Verantwortlicher personenbezogene Daten vorhalten muss, wäre dies ein Eingriff in den Geschäftsbetrieb und grundrechtsrelevant.

Amendment 1517

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 1518
Dimitrios Droutsas

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 1519
Louis Michel

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 1520
Alexander Alvaro

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The Commission ***shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying*** the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2.

Or. en

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.

Amendment 1521
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The ***electronic format, related functionalities and procedures for the transmission of personal data pursuant to paragraph 2, shall be determined by the controller by reference to the most appropriate industry standards available or as defined by industry stakeholders or standardisation bodies. The Commission shall promote and assist industry, stakeholders and standardisation bodies in the mapping and adoption of technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2.***

Amendment 1522
Sari Essayah

Proposal for a regulation
Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Paragraphs 2 and 3 shall not be applicable to the public sector.

Or. en

Amendment 1523
Alexander Alvaro

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. The data subject shall have the right to object, ***on grounds relating to their particular situation***, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), ***unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.***

1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1).

Or. en

Amendment 1524
Cornelia Ernst

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, ***on grounds relating to their particular situation***, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), ***unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.***

Amendment

1. The data subject shall ***always*** have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1). ***This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.***

Or. en

Amendment 1525
Monika Hohlmeier

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, on grounds relating to their particular situation, ***at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1)***, unless the controller demonstrates ***compelling*** legitimate ***grounds for the processing*** which override the interests ***or fundamental rights and freedoms*** of the data subject.

Amendment

1. The data subject shall have the right to object, on grounds relating to their particular situation, unless the controller demonstrates legitimate ***interests*** which override the interests of the data subject. ***There shall be no right to object where the processing is required by law.***

Or. de

Justification

The wording of the balancing clause in paragraph 1 of the proposal for a Regulation diverges from the wording in Article 6(1)(f), and the existing balancing clause in Article 14 (a) of Directive 95/46/EC from Article 7 (f).

Amendment 1526
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, *on grounds relating to their particular situation*, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), *unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject*.

Amendment

1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1).

Or. en

Amendment 1527
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Amendment

1. The data subject shall have the right to object *to processing*, on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Or. en

Amendment 1528
Dimitrios Droutsas

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, ***on grounds relating to their particular situation***, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), ***unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.***

Amendment

1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d) and (e) of Article 6(1).

Or. en

Amendment 1529
Louis Michel

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, on grounds relating to ***their*** particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), ***unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.***

Amendment

1. The data subject shall have the right to object, on ***compelling legitimate*** grounds relating to ***his*** particular situation, at any time to the processing of personal data ***relating to him*** which is based on points (d), (e) and (f) of Article 6(1).

Or. en

Amendment 1530
Josef Weidenholzer

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The data subject shall have the right to object, ***on grounds relating to their particular situation***, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Amendment

1. The data subject shall have the right to object, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.

Or. en

Justification

It is practically impossible for a data subject to argue its particular situation. The data subject should always be able to object, a controller may then demonstrate its compelling legitimate grounds which make processing legal.

Amendment 1531
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

deleted

Or. en

Amendment 1532
Monika Hohlmeier

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed **for direct marketing purposes**, the data subject shall have the right to object free of charge to the processing of their personal data for **such marketing**. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

2. Where personal data are processed **in accordance with Article 6(1)(f)**, the data subject shall have the right to object free of charge to the processing of their personal data for **that purpose**. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. de

Justification

Bei einer Datenverarbeitung auf Grundlage der Abwägungsklausel in Art. 6 Abs. 1 f) ist zum Schutz der Belange des Betroffenen ein bedingungsloses Widerspruchsrecht notwendig. Dies gilt insbesondere für die Weitergabe von Kundendaten an Dritte zu Werbezwecken. Die in Art. 19 Abs. 2 des Verordnungsvorschlags vorgesehene Regelung impliziert eine grundsätzliche Zulässigkeit der Datenweitergabe und Daten-nutzung zu Werbezwecken, die aus Verbraucher- und Datenschutzsicht kritisch beurteilt wird und eine Absenkung des derzeit in Deutschland geltenden Datenschutzniveaus zur Folge hätte.

Amendment 1533
Timothy Kirkhope

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object **free of charge** to the processing of their personal data for such marketing. This right shall be **explicitly** offered to the data subject in an intelligible manner and shall be clearly

Amendment

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object **to processing** to the processing of their personal data for such marketing. This right shall be offered to the data subject in an intelligible **and clear** manner and shall be clearly

distinguishable from other information.

distinguishable from other information.

Or. en

Amendment 1534
Dimitrios Droutsas

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. *Where* personal data *are processed* for direct marketing purposes, the data subject shall *have the right to object free of charge to the processing of their personal data for such marketing*. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

2. *Processing of* personal data for direct marketing purposes *shall require the explicit consent of* the data subject. *The data shall not be given to third parties. A withdrawal of consent shall be possible at all times and free of charge*. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Amendment 1535
Louis Michel

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

2. Where personal data are processed *or intended to be processed* for direct marketing purposes, the data subject shall have *at any time, without any further justification*, the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment 1536
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. *Where* personal data *are processed* for direct marketing purposes, the data subject shall *have the right to object free of charge to the processing of their personal data for such marketing*. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Amendment

2. *Processing of* personal data for direct marketing purposes *shall require the explicit consent of* the data subject. *The data shall not be given to third parties. A withdrawal of consent shall be possible at all times and free of charge*. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Justification

Commission proposal would reduce level of data protection in the field of direct marketing in some member states significantly.

Amendment 1537
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Anna Maria Corazza Bildt

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly

Amendment

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly

distinguishable from other information.

distinguishable from other information.

This right shall include a right to object to the collection and use of personal data obtained through online tracking of the data subject's preferences and behaviour across websites. Where a data subject expresses this right to object through technical means, such as a browser setting, controllers and processors shall respect such objection, consistent with technical industry standards, and must obtain the consent of the data subject to process personal data derived from online tracking for marketing purposes. Consent to online tracking shall enable persistent online tracking across all websites unless such consent is subsequently revoked by the data subject.

Or. en

Amendment 1538
Timothy Kirkhope

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall no longer use or otherwise process the personal data concerned.

deleted

Or. en

Amendment 1539
Csaba Sógor

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall **no longer** use **or otherwise process** the personal data concerned.

3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall use the personal data concerned **only for historical, statistical or research purposes or, depending on the option chosen, delete it.**

Or. hu

Justification

From the point of view of statistical data sets forming the basis of different trends and research, the personal data concerned remain relevant as a result of the termination of the relationship between the controller and the data subject. For example: historical data sets concerning users of bank services may not be compiled if every bank deletes all client data terminating their business relationship.

Amendment 1540

Axel Voss

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Where an objection is upheld pursuant to paragraphs 1 **and 2**, the controller shall no longer use or otherwise process the personal data concerned.

3. Where an objection is upheld pursuant to paragraphs 1, **2 and 3a** the controller shall no longer use or otherwise process the personal data concerned.

Or. en

Amendment 1541

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

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Where an objection is upheld pursuant to

3. Where an objection is upheld pursuant to

paragraphs 1 and 2, the controller shall no longer use or otherwise process the personal data concerned.

paragraph 1, the controller shall inform the data subject of the compelling legitimate grounds which apply in accordance with paragraph 1 or, if he does not do so, he shall no longer use or otherwise process the personal data concerned; where the objection is upheld pursuant to paragraph 2, the controller shall no longer use or otherwise process the personal data concerned.

Or. es

Amendment 1542
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 19 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where pseudonymous data is processed pursuant to Article 6 (1), the data subject shall have the right to object free of charge. This right shall be offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Amendment 1543
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier

Proposal for a regulation
Article 19 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where pseudonymised data is processed pursuant to Article 6(1) the data subject shall have the right to object free of charge. This right shall be offered

to the data subject in an intelligible manner and shall be clearly distinguishable from other information.

Or. en

Amendment 1544
Louis Michel

Proposal for a regulation
Article 20 – title

Text proposed by the Commission

Amendment

Measures based on *profiling*

Measures based on *automated processing*

Or. en

Amendment 1545
Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Every natural person shall have the right *not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.*

1. Every natural person shall have the right *to object to being subject to measures based on profiling as defined under Article 4(2).*

Or. en

Justification

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.

Amendment 1546 **Monika Hohlmeier**

Proposal for a regulation **Article 20 – paragraph 1**

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based ***solely*** on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. de

Justification

Even the partially automated processing and evaluation of data on a given subject contains the risk that essential aspects will be overlooked and that the data subject will be significantly disadvantaged as a result.

Amendment 1547 **Adina-Ioana Vălean, Jens Rohde**

Proposal for a regulation **Article 20 – paragraph 1**

Text proposed by the Commission

1. Every **natural person** shall have the right not to be subject to a measure which **produces legal effects concerning this natural person or significantly affects this natural person**, and which is based solely on automated processing **intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's** performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every **data subject** shall have the right **to request** not to be subject to a measure which **adversely** affects this **data subject** and which is based solely on automated processing **of data intended to evaluate**, analyse or predict **the data subject's** performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. en

Justification

Additional, distinct measures for processing of personal data through automated means are only justified for cases where the measure produces adverse legal effects; any other profiling that constitutes processing of personal data is normal processing and already subject to all the provisions of the Regulation.

Amendment 1548

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

**Proposal for a regulation
Article 20 – paragraph 1**

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person, **both off-line and online**, shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or

behaviour.

Or. en

Amendment 1549

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

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. Every *natural person* shall have the right not to be subject to a *measure* which produces legal effects concerning this *natural person or significantly* affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this *natural person* or to analyse or predict in particular the *natural person's* performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every *data subject* shall have the right not to be subject to a *processing of personal data* which produces *adverse* legal effects concerning this *data subject or comparably* affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this *data subject* or to analyse or predict in particular the *data subject's* performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. en

Amendment 1550

Sophia in 't Veld

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal *effects* concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces *a* legal *effect* concerning this natural person or significantly affects this natural person, and which is based solely *or predominantly* on automated processing intended to evaluate certain personal aspects relating to this natural person or to

in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour. ***Such automated processing may include the application of web analysing tools, tracking for assessing user behaviour, the creation of motion profiles by mobile applications, or the creation of personal profiles by social networks.***

Or. en

Amendment 1551
Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly ***adversely*** affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. pl

Amendment 1552
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or ***significantly*** affects this natural person, and which is ***based solely*** on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or ***relevantly*** affects this natural person, and which is ***primarily based*** on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. en

Amendment 1553
Timothy Kirkhope

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which ***produces legal effects concerning this natural person or significantly affects this natural person, and which*** is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right not to be subject to a measure which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour, ***without prejudice to legal and legitimate forms of profiling in commercial use or for the purpose of the prevention, investigation or prosecution of criminal activity.***

Or. en

Amendment 1554
Ewald Stadler

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or ***significantly affects*** this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Amendment

1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or ***places*** this natural person ***at a legal disadvantage***, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Or. de

Amendment 1555
Louis Michel

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Every natural person shall have the right not to be subject to a ***measure*** which produces legal effects concerning this natural person ***or significantly*** affects this natural person, and ***which*** is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict ***in particular*** the natural person's performance at work, economic situation, location, health, personal preferences, ***reliability or behaviour***.

Amendment

1. Every natural person shall have the right not to be subject to a ***decision*** which produces legal effects concerning this natural person ***and significantly negatively*** affects this natural person, and is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict the natural person's performance at work, economic situation, location, health, personal preferences ***or reliability***.

Or. en

Amendment 1556
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 20 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Is based on the legitimate interests pursued by the data controller.

Or. en

Amendment 1557
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. Subject to the other provisions of this Regulation, a person may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:

deleted

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Or. en

Amendment 1558
Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Subject to the other provisions of this Regulation, a person may be subjected to a measure *of the kind referred to in paragraph 1* only if the processing:

Amendment

2. Subject to the other provisions of this Regulation, a person may be subjected to a measure *based on profiling* only if the processing:

Or. en

Amendment 1559
Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Subject to the other provisions of this Regulation, a person may be subjected to a *measure* of the kind referred to in paragraph 1 only if the processing:

Amendment

2. Subject to the other provisions of this Regulation, a person may be subjected to a *decision* of the kind referred to in paragraph 1 only if the processing:

Or. en

Amendment 1560
Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the

Amendment

deleted

contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Or. en

Justification

Deletion in accordance with amendments of Article 20 paragraph 1 and paragraph 2 point c.

Amendment 1561
Sophia in 't Veld

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is *carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where* suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Amendment

(a) is *necessary for the performance of a contract to which the data subject is a party, or for the implementation of pre-contractual measures taken at the request of the data subject, provided that* suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Or. en

Amendment 1562
Françoise Castex

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried *out in the course of the* entering into, or performance of, a contract, where the request for the entering into or

Amendment

(a) is carried *necessary for* entering into, or performance of, a contract, where the request for the entering into or the

the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Or. en

Amendment 1563
Dimitrios Droutsas

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, *such as* the right to obtain human intervention; or

Amendment

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, ***including the right to be provided with meaningful information about the logic used in the profiling and*** the right to obtain human intervention; or

Or. en

Amendment 1564
Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been ***satisfied*** or

Amendment

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been ***examined*** or

where suitable measures to safeguard the data subject's legitimate interests have been adduced, *such as* the right to obtain human intervention; or

where suitable measures to safeguard the data subject's legitimate interests have been adduced, *including the right to obtain the information on the profiling criteria and* the right to obtain human intervention; or

Or. en

Amendment 1565
Sonia Alfano, Gianni Vattimo

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is *carried out in the course of* the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, *such as* the right to obtain human intervention; or

Amendment

(a) is *necessary for* the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied, or where suitable measures to safeguard the data subject's legitimate interests have been adduced, *including the right to be provided with meaningful information about the logic used in the profiling, and* the right to obtain human *intervention, including an explanation of the decision reached after such* intervention; or

Or. en

Amendment 1566
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by

Amendment

(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by

the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention *and arrangements that allow the data subject to submit his point of view*; or

Or. en

Amendment 1567

Claude Moraes, Glenis Willmott

Proposal for a regulation

Article 20 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Profiling that has the effect of discriminating against individuals on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity, or that results in measures which have such effect, shall be prohibited. Profiling in the employment context shall be prohibited including in the practice of blacklisting of particular employees;

Or. en

Amendment 1568

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 20 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) is based on pseudonymous data;

Or. en

Amendment 1569
Dimitrios Droutsas

Proposal for a regulation
Article 20 – paragraph 2 – point a b (new)

Text proposed by the Commission

Amendment

(ab) Profiling shall not be used to identify or single out children;

Or. en

Amendment 1570
Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

deleted

Or. en

Justification

Deletion in accordance with amendments of Article 20 paragraph 1 and paragraph 2 point c.

Amendment 1571
Joanna Senyszyn

Proposal for a regulation
Article 20 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is expressly authorized by a Union or Member State law which **also lays down** suitable measures to safeguard the data

(b) is expressly authorized by a Union or Member State law **and** which **protects the data subjects legitimate interests and protects against possible discrimination**

subject's legitimate interests; or

resulting from measures described in paragraph 1;

Or. en

Amendment 1572

Axel Voss

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is expressly authorized by a ***Union or Member State law*** which also lays down suitable measures to safeguard the data subject's legitimate interests; or

(b) is expressly authorized by a ***legal basis*** which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Or. en

Amendment 1573

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is ***expressly*** authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

(b) is authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests ***and fundamental rights, including the right to non-discrimination***; or

Or. en

Amendment 1574

Louis Michel

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

(b) is ***expressly authorized by*** a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Amendment

(b) is ***necessary to comply with*** a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Or. en

Amendment 1575

Sonia Alfano, Gianni Vattimo

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

(b) is expressly authorized by a Union or Member State law which ***also lays down suitable measures to safeguard the data subject's legitimate interests***; or

Amendment

(b) is expressly authorized by a Union or Member State law ***and which protects the data subjects legitimate interests and protects against possible discrimination resulting from measures described in paragraph 1***; or

Or. en

Amendment 1576

Lidia Joanna Geringer de Oedenberg

Proposal for a regulation

Article 20 – paragraph 2 – point b

Text proposed by the Commission

(b) is ***expressly*** authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Amendment

(b) is authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or

Or. pl

Amendment 1577
Sophia in 't Veld

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, ***including effective protection against possible discrimination resulting from measures described in paragraph 1.***

Or. en

Amendment 1578
Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the ***data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.***

Amendment

(c) is based on the ***grounds of Article 6 of this Regulation and is accompanied by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests.***

Or. en

Justification

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.

Amendment 1579
Wim van de Camp

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is *based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.*

Amendment

(c) is *lawful pursuant to Article 6(1)(a) to (f) of this Regulation.*

Or. en

Amendment 1580
Joanna Senyszyn

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, *including effective protection against possible discrimination resulting from measures described in paragraph 10.*

Or. en

Amendment 1581
Dimitrios Droutsas

Proposal for a regulation
Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, *including the possibility to withdraw consent at any time and effective protection against possible discrimination resulting from measures described in*

paragraph 1.

Or. en

Amendment 1582

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards. ***The controller has to implement effective protection against possible discrimination resulting from measures described in paragraph 1. Such measures must be based on scientifically recognized mathematic-statistical procedures.***

Or. en

Amendment 1583

Sonia Alfano, Gianni Vattimo

Proposal for a regulation

Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.

Amendment

(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, ***including effective protection against possible discrimination resulting from measures described in paragraph 1.***

Or. en

Amendment 1584
Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) is carried out in the purpose of monitoring and prevention of frauds; or

Or. en

Amendment 1585
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier

Proposal for a regulation
Article 20 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) is limited to pseudonymised data. Such pseudonymised data must not be collated with data on the bearer of the pseudonym. Article 19(3a) shall apply correspondingly.

Or. en

Justification

In line with Article 15, paragraph 3 of the German Telemedia Act which encourages the pseudonymisation of data and provides a clear legislative framework for profiling in the areas of, inter alia, advertising and market research.

Amendment 1586
Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) is carried out based on well-founded suspicion of committing a crime to the detriment of the controller; or

Or. en

Amendment 1587

Louis Michel

Proposal for a regulation

Article 20 – paragraph 2 – point c c (new)

Text proposed by the Commission

Amendment

(cc) is carried out for the purpose of assessing risk and credit worthiness, assuring safety and reliability of services provided by a controller; or

Or. en

Amendment 1588

Louis Michel

Proposal for a regulation

Article 20 – paragraph 2 – point c d (new)

Text proposed by the Commission

Amendment

(cd) is necessary to pursue controller's legitimate interest in accordance with Article 6(1)(ja); or

Or. en

Amendment 1589

Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – point c e (new)

Text proposed by the Commission

Amendment

(ce) is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the personal data are disclosed; or

Or. en

Amendment 1590
Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – point c f (new)

Text proposed by the Commission

Amendment

(cf) is necessary for the purposes of the legitimate interests of the controller or the third party or parties to whom the profiles or data are disclosed, except where such interests are overridden by the fundamental rights and freedoms of the data subjects; or

Or. en

Amendment 1591
Louis Michel

Proposal for a regulation
Article 20 – paragraph 2 – point c g (new)

Text proposed by the Commission

Amendment

(cg) is necessary in the vital interests of the data subject.

Or. en

Amendment 1592

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Profiling that has the direct or indirect effect of discriminating against individuals on the basis of race or ethnic origin, socio-economic status, political opinions, religion or beliefs, trade union membership and activities, sexual orientation or gender identity, or that results in measures which have such effect, shall always be prohibited. Profiling in the employment context shall always be prohibited.

Or. en

Amendment 1593

Sylvie Guillaume, Françoise Castex, Evelyn Regner

Proposal for a regulation

Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In the employment sphere, the processing or use of data for the purposes of the permanent surveillance or profiling of employees, the drawing-up and dissemination of black lists of employees, the monitoring of performance or conduct or the preparation of a dismissal on grounds of illness shall be prohibited; job applicants' data shall enjoy the same protection.

Or. fr

Amendment 1594
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.

Amendment

deleted

Or. en

Amendment 1595
Sophia in 't Veld

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not **be based solely on** the special categories of personal data referred to in Article 9.

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not **include or generate any data that fall under** the special categories of personal data referred to in Article 9, **without prejudice to the exceptions listed in Article 9(2).**

Or. en

Amendment 1596
Cornelia Ernst

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based *solely* on the special categories of personal data referred to in Article 9.

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based on the special categories of personal data referred to in Article 9.

Or. en

Amendment 1597
Dimitrios Droutsas

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. *Automated processing of personal data intended to evaluate certain personal aspects* relating to a natural person shall not be based *solely* on the special categories of personal data referred to in Article 9.

Amendment

3. *Profiling activities* relating to a natural person shall not be based on the special categories of personal data referred to in Article 9.

Or. en

Amendment 1598
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9 *unless the data subject has given*

consent.

Or. en

Amendment 1599
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based *solely* on the special categories of personal data referred to in Article 9.

Amendment

3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based *primarily* on the special categories of personal data referred to in Article 9.

Or. en

Amendment 1600
Sophia in 't Veld

Proposal for a regulation
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Profiling on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity that has a negative effect on individuals shall be prohibited.

Or. en

Amendment 1601
Manfred Weber

Proposal for a regulation
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Without prejudice to other provisions of criminal law at European and/or Member State level, the automated processing of personal data to create a movement profile is prohibited.

Or. de

Justification

Except for the purposes of criminal law, particularly where the data subject has not given his or her explicit consent for this purpose, the processing or collation of personal data in such a way as to create a movement profile of the data subject must be prohibited.

Amendment 1602
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Credit rating data and/or profiling procedures in connection with the conclusion of contracts may be used only when a specially high risk of default can be demonstrated.

In predicting the risk of default, only personal data that is genuinely relevant to the person's credit rating, such as payment problems or insolvency data, may be used.

Where scoring methods are used, these must lead to scientifically watertight conclusions.

The provider and requester of credit rating data must act in a transparent manner. Consumers should be informed about the data used, the deployment of

scoring methods, etc. Credit rating data must be correct and up to date.

Health data may not be used for scoring purposes.

Or. de

Amendment 1603

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

Proposal for a regulation

Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In any case, children should not be subject to measures of profiling, as referred to in paragraph 1.

Or. en

Amendment 1604

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.

deleted

Or. en

Amendment 1605

Alexander Alvaro

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. *In the cases referred to in paragraph 2*, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.

Amendment

4. The information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on *the data subject as well as the result of the data protection risk analysis referred to in Article 33 as far as it concerns* the data subject.

Or. en

Justification

Data subjects should also be informed about the risks of the data processing.

Amendment 1606
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

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Amendment

3a. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.

Or. es

Amendment 1607
Stanimir Ilchev

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, ***the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.***

Amendment

4. In the cases referred to in paragraph 2, ***each*** controller shall ***notify the data subject separately without delay of*** the existence of processing for ***measures*** of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject

Or. de

Justification

In cases of profiling, a separate notification requirement is introduced for those data controllers both directly and indirectly responsible for the operation.

Amendment 1608
Timothy Kirkhope

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 ***and the envisaged effects of such processing on the data subject.***

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1.

Or. en

Amendment 1609
Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under **Article 14** shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under **Articles 14 and 15** shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1, **including the criteria for the processing in question** and the envisaged effects of such processing on the data subject.

Or. en

Amendment 1610
Louis Michel

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a **measure** of the kind referred to in paragraph 1 **and the envisaged effects of such processing on the data subject**.

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a **decision** of the kind referred to in paragraph 1.

Or. en

Amendment 1611
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of ***processing for*** a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.

Amendment

4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of a measure of the kind referred to in paragraph 1, ***meaningful information about the logic used*** and the envisaged effects of such processing on the data subject.

Or. en

Amendment 1612

Alexander Alvaro

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

Amendment

deleted

Or. en

Amendment 1613

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

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

Amendment

deleted

specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

Or. en

Amendment 1614

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

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

deleted

Or. es

Amendment 1615

Louis Michel

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

deleted

Or. en

Amendment 1616

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

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

deleted

Or. en

Amendment 1617

Sophia in 't Veld

Proposal for a regulation

Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.

5. The *European Data Protection Board shall be entrusted with the task* of further specifying the criteria and conditions for suitable measures to safeguard the data subject's *fundamental rights regarding the provisions of this Article, and the* legitimate interests referred to in paragraph 2.

Or. en

Amendment 1618

Birgit Sippel, Petra Kammerevert, Josef Weidenholzer

Proposal for a regulation

Article 20 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. In case of a child, profiling shall never be allowed, regardless of a possible consent given by the child's parent or legal representative.

Or. en

Justification

The Commission Proposal only mentions the prohibition of profiling in case of a child in recital 58. By integrating this prohibition in an article it will become legally binding.

Amendment 1619

Monika Hohlmeier, Axel Voss

Proposal for a regulation

Article 21 – title

Text proposed by the Commission

Amendment

Restrictions

Extensions and restrictions

Or. de

Amendment 1620

Alexander Alvaro

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to **20** and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

1. Union or Member State law may restrict ***or extend*** by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to **19** and Article 32, when such a restriction ***or extension*** constitutes a necessary and proportionate measure in a democratic society to safeguard:

Justification

There is no justifiable reason to bound Member States to only limit certain obligations and rights.

Amendment 1621

Cornelia Ernst

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided **for** in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, **when such a restriction constitutes a necessary and proportionate measure in a democratic society** to safeguard:

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided in points (c) **and** (e) of Article 5 and Articles 11 to 13 **and 15 to 19, Article 20, paragraph 1, 2 and 4** and Article 32, **provided that it meets a clearly defined objective of public interest, respects the essence of the right to protection of personal data, is proportionate to the legitimate aim pursued and respects the fundamental rights and interests of the data subject in order** to safeguard:

Or. en

Amendment 1622

Dimitrios Droutsas

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights **provided for in points (a) to (e) of Article 5 and** Articles 11 to 20 and Article 32, when such a

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights **in** Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and

restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

proportionate measure in a democratic society to safeguard:

Or. en

Amendment 1623

Josef Weidenholzer, Birgit Sippel

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

1. Union *or Member State* law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

Amendment

1. Union law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

Or. en

Justification

Interests of others should as far as possible be included in the text of this regulation. The core principles in Article 5 should not be overridden by other laws, but they may be defined further in such laws.

Amendment 1624

Monika Hohlmeier, Axel Voss

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11

Amendment

1. Union or Member State law may *extend or* restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5

to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

and Articles 11 to 20 and Article 32, when such ***an extension or*** restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:

Or. de

Justification

To enhance the protection of personal data in Europe, Article 21 should allow not only restrictions but also extensions of rights and obligations. For example, the German Data Protection Act provides for more extensive rights to information, e.g. with regard to credit rating agencies and direct marketing.

Amendment 1625

Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation

Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Parties on the labour market may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction have been agreed by national collective agreements to constitutes a necessary and proportionate measure.

Or. en

Justification

The labour market is regulated very differently in the different Member States. Some Member States have a tradition with legislation and other Member States have a high degree of regulation that stems from collective agreements on the labour market.

Amendment 1626

Monika Hohlmeier, Axel Voss

Proposal for a regulation
Article 21 – paragraph 1 – point a a(new)

Text proposed by the Commission

Amendment

(aa) national security;

Or. de

Justification

Addition of sub-paragraphs (a a) and (a b) is necessary to bring Article 21 in line with the existing rule in Article 13(1) of Directive 95/46/EC.

Amendment 1627
Monika Hohlmeier, Axel Voss

Proposal for a regulation
Article 21 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) defence;

Or. de

Justification

Addition of sub-paragraphs (a a) and (a b) is necessary to bring Article 21 in line with the existing rule in Article 13(1) of Directive 95/46/EC.

Amendment 1628
Jan Mulder

Proposal for a regulation
Article 21 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) national security;

Or. en

Amendment 1629

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 21 – paragraph 1 – point b

Text proposed by the Commission

(b) the prevention, investigation, detection and prosecution of criminal offences;

Amendment

(b) the prevention, investigation, detection and prosecution of *specific* criminal offences;

Or. en

Amendment 1630

Monika Hohlmeier, Axel Voss

Proposal for a regulation

Article 21 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) in cases where pseudonymised data is used;

Or. de

Justification

Addition of sub-paragraphs (a a) and (a b) is necessary to bring Article 21 in line with the existing rule in Article 13(1) of Directive 95/46/EC.

Amendment 1631

Wim van de Camp

Proposal for a regulation

Article 21 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) national security;

Justification

Although national security is not governed by Union law, it is necessary to clarify that data controllers are not in violation of the Regulation when restricting rights of data subjects in the interest of national security.

Amendment 1632
Alexander Alvaro

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) *other public interests of the Union or of a Member State, in particular* an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;

Amendment

(c) an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;

Justification

"Other public interests" is too broad and bears the risk of becoming a legal loophole.

Amendment 1633
Cornelia Ernst

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) other public interests of the Union or of a Member State, in particular *an important economic or financial interest of the Union or of a Member State, including* monetary, budgetary and taxation matters

Amendment

(c) other *substantial* public interests of the Union or of a Member State, in particular *in relation to important* monetary, budgetary and taxation matters;

and the protection of market stability and integrity;

Or. en

Amendment 1634

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) other public interests of the Union or of a Member State, *in particular* an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;

Amendment

(c) other public interests of the Union or of a Member State, *such as* an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;

Or. en

Amendment 1635

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) other public interests of the Union or of a Member State, *in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;*

Amendment

(c) other public interests of the Union or of a Member State;

Or. en

Amendment 1636
Dimitrios Droutsas

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters ***and the protection of market stability and integrity***;

Amendment

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters;

Or. en

Amendment 1637
Sarah Ludford

Proposal for a regulation
Article 21 – paragraph 1 – point c

Text proposed by the Commission

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, ***including monetary, budgetary and taxation matters and the protection of market stability and integrity***;

Amendment

(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State;

Or. en

Justification

The public interest of the Union or a Member State should not be limited to economic and financial interests.

Amendment 1638
Josef Weidenholzer

Proposal for a regulation
Article 21 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;

deleted

Or. en

Amendment 1639
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 21 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the protection of international relations;

Or. en

Amendment 1640
Josef Weidenholzer

Proposal for a regulation
Article 21 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d);

deleted

Or. en

Amendment 1641
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 21 – paragraph 1 – point e

Text proposed by the Commission

(e) a monitoring, inspection or regulatory function ***connected, even occasionally, with*** the exercise of ***official*** authority in cases referred to in (a), (b), (c) and (d);

Amendment

(e) a monitoring, inspection or regulatory function ***in the framework of*** the exercise of ***a competent public*** authority in cases referred to in (a), (b), (c) and (d);

Or. en

Amendment 1642
Josef Weidenholzer

Proposal for a regulation
Article 21 – paragraph 1 – point f

Text proposed by the Commission

(f) the protection of the data subject or the rights and freedoms of others.

Amendment

deleted

Or. en

Amendment 1643
Sarah Ludford

Proposal for a regulation
Article 21 – paragraph 1 – point f a (new)

Text proposed by the Commission

(fa) legal professional privilege and lawyer-client confidentiality.

Amendment

Or. en

Justification

Legal professional privilege and lawyer-client confidentiality as long-established principles underpinning the administration of justice.

Amendment 1644

Csaba Sógor

Proposal for a regulation

Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing **and** the determination of the controller.

Amendment

2. In particular, any legislative measure referred to in paragraph 1 **must be necessary and proportionate in the information society and** shall contain specific provisions at least as to:

(a) the objectives to be pursued by the processing;

(b) the determination of the controller;

(c) **the specific purposes and means of processing;**

(d) **the categories of persons authorised to process the data;**

(e) **the procedure to be followed for the processing;**

(f) **the safeguards to prevent abuse;**

(g) **the right of data subjects to be informed about the restriction.**

Or. hu

Justification

It would be worthwhile also legitimising the information society at this level as a factor which exists and is in operation. Data processing is inseparably linked to the information society, since data contains information.

Amendment 1645

Alexander Alvaro

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the **objectives** to be pursued by the processing and the determination of the controller.

Amendment

2. In particular, any legislative measure referred to in paragraph 1 **shall comply with the standards of necessity and proportionality in accordance with Article 1 and** shall contain specific provisions at least as to the **purposes** to be pursued by the processing and the determination of the controller.

Or. en

Amendment 1646
Monika Hohlmeier

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the **objectives** to be pursued by the processing and the determination of the controller.

Amendment

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the **purposes** to be pursued by the processing and the determination of the controller.

Or. de

Amendment 1647
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the

Amendment

2. In particular, any legislative measure referred to in paragraph 1 shall **comply with the standards of necessity and**

objectives to be pursued by the processing and the determination of the controller.

proportionality in accordance with Article 1 and shall contain specific provisions at least as to the *purposes* to be pursued by the processing and the determination of the controller.

Or. en

Amendment 1648
Dimitrios Droutsas

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing *and* the determination of the controller.

Amendment

2. In particular, any legislative measure referred to in paragraph 1 *must be necessary and proportionate in a democratic society and* shall contain specific provisions at least as to:

- (a) the objectives to be pursued by the processing;
- (b) the determination of the controller;
- (c) *the specific purposes and means of processing;*
- (d) *the categories of persons authorised to process the data;*
- (e) *the procedure to be followed for the processing;*
- (f) *the safeguards to prevent abuse;*
- (g) *the right of data subjects to be informed about the restriction.*

Or. en

Amendment 1649
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. ***In particular***, any legislative measure referred to in paragraph 1 shall contain specific provisions ***at least*** as to the objectives to be pursued by the processing ***and the determination of the*** controller.

Amendment

2. Any legislative measure referred to in paragraph 1 shall contain specific provisions as to the objectives to be pursued by the processing, ***the categories of personal data processed, the specific means and purposes of processing, the categories of persons entitled to process the data, the designation of the*** controller, ***and the safeguards against unlawful access or transfer of data.***

Or. en

Amendment 1650

Louis Michel

Proposal for a regulation

Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Articles 11 to 20 shall not apply where the processing of personal data is necessary to enable the controller to comply with other legal, regulatory and professional obligations especially in respect of prevention of money laundering and/or terrorist financing.

Or. en

Amendment 1651

Sonia Alfano, Gianni Vattimo

Proposal for a regulation

Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Legislative measures referred to in paragraph 1 shall neither permit or oblige

private controllers to retain data additional to those strictly necessary for the original purpose.

Or. en

Amendment 1652
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any such legislative measure shall contain the requirement to inform the data subject of the restriction of their right and of the possibility to obtain indirect access through the national data protection supervisory authority.

Or. en

Amendment 1653
Jan Mulder

Proposal for a regulation
Article 22 – title

Text proposed by the Commission

Amendment

Responsibility of the controller

Responsibility *and accountability* of the controller

Or. en

Amendment 1654
Alexander Alvaro

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt policies and implement appropriate measures **having regard to state of the art technologies** to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Or. en

Amendment 1655
Jan Mulder

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate **in a transparent manner** that the processing of personal data is performed in compliance with this Regulation. **Accountability will always remain with the management.**

Or. en

Amendment 1656
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller **shall** adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller **may** adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment 1657
Wim van de Camp

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt **appropriate** policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Or. en

Justification

This allows for a risk-based approach.

Amendment 1658
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. *The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.*

Amendment

1. *Having regard to the state of the art, the nature of personal data processing and the type of the organization, both at the time of the determination of the means for processing and at the time of the processing itself, appropriate and demonstrable technical and organizational measures should be implemented in such a way that the processing will meet the requirements of this Regulation and ensures the protection of the rights of the data subject by design.*

Justification

The Regulation should provide enough flexibility to allow different organizations to implement the most effective technical and organizational measures, fit for the nature and structure of each respective organization.

Amendment 1659

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with ***the data protection principles laid out in*** this Regulation, ***and that the intended outcome is achieved for data subjects.***

Or. en

Amendment 1660

Nils Torvalds

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall ***adopt policies and implement appropriate measures to ensure and be able to demonstrate*** that the processing ***of personal data is performed in compliance with this Regulation.***

Amendment

1. ***With regard to the nature of personal data being processed, the type of organization in question, and considering the state-of-the-art, the controller and processor shall, both at the time of the determination of the means of processing and at the time of the processing, implement appropriate and demonstrable***

technical and organizational measures as well as suitable privacy programmes that ensure that the processing meets the requirements of this Regulation and the protection of the rights of the data subject by design.

Or. en

Amendment 1661
Ewald Stadler

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure ***and be able to demonstrate*** that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt policies and implement appropriate measures to ensure that the processing of personal data is performed in compliance with this Regulation.

Or. de

Amendment 1662
Salvatore Iacolino

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment

1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation. ***Those measures shall be proportionate to the size of the controller, the nature of the data being processed and the impact of such processing on the data subjects.***

Or. it

Justification

This amendment seeks to confirm the relevance of the principle of corporate responsibility in ensuring the protection of personal data, without creating excessive red tape, especially for small and medium-sized enterprises.

Amendment 1663
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Upon request by the competent data protection authority, the controller or processor shall demonstrate the existence of technical and organizational measures.

Or. en

Amendment 1664
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. A group of undertakings may apply joint technical and organizational measures to meet its obligations arising from the Regulation.

Or. en

Amendment 1665
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. This article does not apply to a natural person processing personal data without commercial interest.

Or. en

Amendment 1666
Alexander Alvaro

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

Amendment

2. The measures provided for in paragraph 1 shall in particular include:

deleted

(a) keeping the documentation pursuant to Article 28;

(b) implementing the data security requirements laid down in Article 30;

(c) performing a data protection impact assessment pursuant to Article 33;

(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);

(e) designating a data protection officer pursuant to Article 35(1).

Or. en

Justification

This paragraph has no added value and does not mention all obligations required by the Regulation. It is enough to state that the controller must adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.

Amendment 1667

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

Proposal for a regulation

Article 22 – paragraph 2 – introductory part

Text proposed by the Commission

2. The measures provided for in paragraph 1 shall *in particular* include:

Amendment

2. The measures provided for in paragraph 1 shall include, *in the cases and in accordance with the rules set out in this chapter*:

Or. es

Amendment 1668

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 22 – paragraph 2 – introductory part

Text proposed by the Commission

2. *The measures provided for in paragraph 1 shall in particular include:*

Amendment

2. *Such* measures *include, without limitation:*

Or. en

Amendment 1669

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 22 – paragraph 2 – introductory part

Text proposed by the Commission

2. The measures provided for in paragraph 1 *shall in particular include:*

Amendment

2. The measures provided for in paragraph 1 *may include measures such as:*

Or. en

Amendment 1670
Nils Torvalds

Proposal for a regulation
Article 22 – paragraph 2 – introductory part

Text proposed by the Commission

2. The measures provided for in paragraph 1 shall *in particular include*:

Amendment

2. The measures provided for in paragraph 1 shall *include, but not be limited to*,

Or. en

Amendment 1671
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) *keeping the documentation pursuant to Article 28;*

Amendment

(a) *independent management oversight of processing of personal data to ensure the existence and effectiveness of the technical and organizational measures;*

Or. en

Amendment 1672
Nils Torvalds

Proposal for a regulation
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) *keeping the documentation pursuant to Article 28;*

Amendment

(a) *management oversight of the processing of personal data to ensure the existence, implementation and effectiveness of the technical and organizational measures outlined in paragraph 1;*

Or. en

Amendment 1673
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) implementing *the data security requirements laid down in Article 30;*

Amendment

(b) implementing *a control management system, including the assignment of responsibilities, training of staff and adequate instructions;*

Or. en

Amendment 1674
Nils Torvalds

Proposal for a regulation
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) *implementing the data security requirements laid down in Article 30;*

Amendment

(b) *the existence of proper policies, instructions or other guidelines to direct the processing of data in a way that complies with this Regulation, as well as procedures and enforcement to make such policies, instructions or guidelines effective;*

Or. en

Amendment 1675
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) *performing a data protection impact*

Amendment

(c) *existence of proper policies,*

assessment pursuant to Article 33;

instructions or other guidelines to guide data processing needed to comply with the Regulation as well as procedures and enforcement to make such guidelines effective;

Or. en

Amendment 1676

Nils Torvalds

Proposal for a regulation

Article 22 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) performing a data protection impact assessment pursuant to Article 33;

(c) the existence of proper planning and procedures which ensure compliance with this Regulation and which address potentially risky processing of personal data prior to the start of the processing of data;

Or. en

Amendment 1677

Nils Torvalds

Proposal for a regulation

Article 22 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2);

(d) the existence of appropriate documentation of data processing that enables compliance with the obligations arising from this Regulation;

Or. en

Amendment 1678

Wim van de Camp

Proposal for a regulation
Article 22 – paragraph 2 – point d

Text proposed by the Commission

(d) complying with the requirements for prior authorisation *or prior consultation* of the supervisory authority pursuant to Article 34(1) *and (2)*;

Amendment

(d) complying with the requirements for prior authorisation of the supervisory authority pursuant to Article 34(1);

Or. en

Justification

In view of the deletion of Article 34(2) the reference to prior consultation has been deleted.

Amendment 1679
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point d

Text proposed by the Commission

(d) *complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2)*;

Amendment

(d) *existence of proper planning procedures to ensure compliance and to address potentially risky processing of personal data prior to the commencement of the processing*;

Or. en

Amendment 1680
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point e

Text proposed by the Commission

(e) *designating a data protection officer pursuant to Article 35(1)*.

Amendment

(e) *the existence of appropriate documentation of data processing to enable compliance with the obligations*

arising from the Regulation;

Or. en

Amendment 1681

Nils Torvalds

Proposal for a regulation

Article 22 – paragraph 2 – point e

Text proposed by the Commission

(e) *designating* a data protection officer pursuant to Article 35(1).

Amendment

(e) *the existence of* a data protection officer, *as outlined in Article 4, or other staff supported with adequate resources to oversee the implementation of measures defined in this Article and to monitor compliance with this Regulation. The sufficient organizational independence of the data protection officer or other staff shall be ensured;*

Or. en

Amendment 1682

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

Proposal for a regulation

Article 22 – paragraph 2 – point e

Text proposed by the Commission

(e) designating a data protection officer pursuant to Article 35(1).

Amendment

(e) designating a data protection officer pursuant to Article 35(1), *or the obligation and maintenance of certification in accordance with the certification policies defined by the Commission.*

Or. es

Amendment 1683

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the existence of adequately skilled data protection organization or data protection officer supported with adequate resources to oversee implementation of measures defined in this article and to monitor compliance with this Regulation, having particular regard to ensuring organizational independence of such data protection officer or organisation to prevent inappropriate conflicts of interest. Such a function may be fulfilled by way of a service contract;

Or. en

Amendment 1684
Nils Torvalds

Proposal for a regulation
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the existence of proper awareness and training of the staff participating in the processing of data and the related decision-making;

Or. en

Amendment 1685
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the existence of proper awareness and training of the staff participating in data processing and decisions thereto of the obligations arising from this Regulation.

Or. en

Amendment 1686
Stanimir Ilchev

Proposal for a regulation
Article 22 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) keeping the documentation pursuant to **Article 28**;

(f) keeping the documentation pursuant to **Article 14**;

Or. de

Amendment 1687
Axel Voss

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

deleted

Or. en

Amendment 1688
Salvatore Iacolino

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

deleted

Or. it

Justification

This provision appears to place a great burden on controllers and should be balanced with responsibility criteria that are proportionate to the size of the controller, the nature of the data being processed and the impact of such processing.

Amendment 1689
Jan Mulder

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures *referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.*

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures.

Or. en

Amendment 1690
Alexander Alvaro

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in *paragraphs 1 and 2*. If proportionate, this verification *shall* be carried out by independent internal or external auditors.

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in *paragraph 1*. If proportionate, this verification *may* be carried out by independent internal or external auditors.

Or. en

Justification

Consequence arising out of the deletion of paragraph 2.

Amendment 1691

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

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, *and a high level of risk exists*, this verification shall be carried out by independent internal or external auditors.

Or. es

Amendment 1692

Jan Philipp Albrecht

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall **implement mechanisms to ensure the verification of** the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this **verification** shall be **carried out** by independent internal or external auditors.

3. The controller shall **be able to demonstrate** the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this shall be **verified** by independent internal or external auditors. **A certification pursuant to Article 39 shall be considered an adequate verification.**

Or. en

Justification

Replaces AM 173 from the rapporteur by adding the clarification that a data protection certification or seal shall be valid as a verification of the compliance of the controller. This sets an incentive for using these seals, also for data processors, and in return minimises verification obligations for the controller.

Amendment 1693
Wim van de Camp

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

3. The controller shall implement **appropriate** mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

Or. en

Justification

This allows for a risk-based approach.

Amendment 1694
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification **shall** be carried out by independent internal or external auditors.

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification **may** be carried out by independent internal or external auditors.

Or. en

Amendment 1695
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. ***If proportionate, this verification shall be carried out by independent internal or external auditors.***

Amendment

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2.

Or. en

Amendment 1696
Dimitrios Droutsas

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall **implement**

Amendment

3. The controller shall **be able to**

mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this *verification* shall be *carried out* by independent internal or external auditors.

demonstrate the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this shall be *verified* by independent internal or external auditors.

Or. en

Amendment 1697

Nils Torvalds

Proposal for a regulation

Article 22 – paragraph 3

Text proposed by the Commission

3. The controller *shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.*

Amendment

3. The controller *or processor shall, upon request by the competent data protection authority, demonstrate the existence of technical and organizational measures in line with those referred to in paragraphs 1 and 2.*

Or. en

Amendment 1698

Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation

Article 22 – paragraph 3

Text proposed by the Commission

3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.

Amendment

3. The controller shall implement mechanisms to ensure the verification of the *adequacy and* effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors. *The controller shall regularly make public reports of its activities under this Article.*

Or. en

Amendment 1699
Alexander Alvaro

Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

Or. en

Amendment 1700
Sari Essayah

Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

small and medium-sized-enterprises.

Or. en

Justification

There is no need for delegated powers to this respect.

Amendment 1701

Axel Voss

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

Or. en

Amendment 1702

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

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

any further criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises.

Or. es

Amendment 1703
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 1704
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

**Amendment 1705
Dimitrios Droutsas**

**Proposal for a regulation
Article 22 – paragraph 4**

Text proposed by the Commission

Amendment

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

4. The Commission shall be empowered to adopt, **after requesting an opinion of the European Data Protection Board**, delegated acts in accordance with Article 86 for the purpose of specifying the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises.

Or. en

Amendment 1706
Nils Torvalds

Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

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

Amendment

4. A group of undertakings may apply joint technical and organizational measures to meet the obligations arising from this Regulation.

Or. en

Justification

It should be enough to comply with the obligations arising from this Regulation without limiting the measures available to achieve this; the most effective means and measures of achieving the goals and complying with the obligations of this Regulation should be left for the controllers and processors to decide upon, as long as they are appropriate and the processing of personal data is demonstrably conducted in a way that complies with this Regulation.

Amendment 1707
Frank Engel

Proposal for a regulation
Article 22 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The controller or processor may designate its main establishment in accordance with Article 4 in one of the Member States, in particular where the

controller or the processor have establishments located in more than one Member State.

Or. en

Amendment 1708
Frank Engel

Proposal for a regulation
Article 22 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. The main establishment designated under paragraph 4 subpoint 1 shall be responsible to the supervisory authority of the Member State in which that main establishment is established, for the implementation of the provisions of this Regulation by all of the controller's or processor's establishments within the territory of the Union.

Or. en

Amendment 1709
Alexander Alvaro

Proposal for a regulation
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Compliance

Having regard to the state of the art and the cost of implementation, the controller shall take all reasonable steps to implement compliance policies and procedures that persistently respect the autonomous choices of data subjects. These compliance policies shall be

reviewed at least every two years and updated where necessary.

Or. en

Justification

Data protection by design and default as well as other privacy enhancing measures and technologies are only successful, if data controllers endeavour to implement compliance policies and procedures that persistently respect the autonomous choices of data subjects.

Amendment 1710
Alexander Alvaro

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. *Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as* having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Data protection by design shall have particular regard to the entire lifecycle management of personal data from collection to processing to deletion, systematically focusing on comprehensive procedural safeguards regarding the accuracy, confidentiality, integrity, physical security and deletion of personal data.

Or. en

Justification

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. Article is further amended in accordance with respect to context and risk principles pursuant to Articles 5a (new) and 5b (new).

Amendment 1711

Axel Voss

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art **and** the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate ***technical and organisational*** measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art, the cost of implementation **and *international best practices***, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Notwithstanding, the controller should only be burdened with measures that are proportionate to the risk of data processing reflected by the nature of the personal data to be processed.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 1712

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

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement technical and organisational measures and procedures ***appropriate to the activities and their purposes***, in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. es

Amendment 1713
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the ***cost of implementation, the controller*** shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art, ***the controller and the processor, if any***, shall, both at the time of the determination of the ***purposes and*** means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, ***in particular with regard to the principles laid out in Article 5. Where the controller has carried out a data protection impact assessment pursuant to Article 33, the results shall be taken into account when developing those measures and procedures.***

Or. en

Justification

Replaces AM 176 by the rapporteur and now also addresses processors. Data controllers and processors should always be obliged to meet the requirements of this Regulation. Without the proposed deletion, data controllers or processors could easily avoid compliance with the Regulation by alleging high implementation costs.

Amendment 1714

Joanna Senyszyn

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art and the cost of implementation, the controller ***after carrying out a data protection impact assessment in accordance with the provisions adopted pursuant to Article 33 of this Regulation*** shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. en

Amendment 1715

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art ***and*** the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time

Amendment

1. Having regard to the state of the art, the cost of implementation ***and international best practices***, the controller shall, both at the time of the determination of the means

of the processing itself, implement appropriate ***technical and organisational*** measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. en

Amendment 1716
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art ***and the cost of implementation***, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the state of the art, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. en

Amendment 1717
Ewald Stadler

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time

Amendment

1. Having regard to ***the risk, the type of data requiring protection***, the state of the art and the cost of implementation, the controller shall, both at the time of the

of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. de

Amendment 1718
Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. Having regard to the state of the art ***and the cost of implementation***, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Amendment

1. Having regard to the ***latest technological developments, the cost of their implementation and the current*** state of the art, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

Or. pl

Amendment 1719
Alexander Alvaro, Jürgen Creutzmann

Proposal for a regulation
Article 23 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In order to foster its widespread implementation in different economic sectors, data protection by design shall be

a prerequisite for public procurement tenders according to the Directive of the European Parliament and of the Council on public procurement as well as according to the Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sector (Utilities Directive).

Or. en

Amendment 1720
Csaba Sógor

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. *The* controller shall **implement mechanisms for ensuring** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. **Where the data subject is given a choice regarding the processing of personal data,** *the* controller shall **ensure** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals **and that information in the form of a request for consent regarding the distribution of personal data will be obtained.**

Or. hu

Justification

A request for consent accompanies every instance of data distribution. Monitoring with this method is based on notices collected by data subjects.

Amendment 1721
Alexander Alvaro

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. ***Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as having regard to the state of the art and the cost of implementation,*** the controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected, ***disseminated*** or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Or. en

Amendment 1722
Ioan Enciu

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall ***implement mechanisms for ensuring*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected ***or retained*** beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular,

Amendment

2. The controller shall ***ensure*** that, by default, only those personal data are processed which are ***strictly*** necessary for each specific purpose of the processing and are especially not collected, ***retained or processed*** beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms

those mechanisms shall ensure that by default personal data are not made accessible to *an indefinite number of individuals*.

shall ensure that by default personal data are not made accessible to *other individuals and that data subjects are able to control the distribution of their personal data pseudonymisation shall be used where possible*.

Or. en

Amendment 1723

Axel Voss

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. Such measures and procedures shall:

(a) take due account of existing technical standards and regulations in the area of public safety and security

(b) follow the principle of technology, service and business model neutrality

(c) be based on global industry-led efforts and standards

(d) take due account of international developments.

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 1724

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

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are ***necessary*** for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary ***for*** those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are ***not excessive*** for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary ***in proportion to*** those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Or. es

Amendment 1725

Jan Philipp Albrecht

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. The controller ***shall implement mechanisms for ensuring*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and

Amendment

2. ***Where the data subject is given a choice regarding the processing of personal data, the controller and the processor, if any, shall ensure*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary

the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals ***and that data subjects are able to control the distribution of their personal data.***

Or. en

Justification

Replaces AM 177 from the rapporteur and now also addresses processors. Data controllers and processors should always be obliged to meet the requirements of this Regulation. The first part clarifies the meaning of "default" (settings that can be changed by the data subject) in contrast to "design" (general obligation for controller and processor).

Amendment 1726

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. Such measures and procedures shall:

(a) take due account of existing technical standards and regulations in the area of public safety and security;

(b) follow the principle of technology, service and business model neutrality;

(c) be based on global industry-led efforts and standards;

(d) take due account of international developments.

Or. en

Amendment 1727
Dimitrios Droutsas

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall ***implement mechanisms for ensuring*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Amendment

2. The controller shall ***ensure*** that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals ***and that data subjects are able to control the distribution of their personal data; pseudonymisation shall be used where possible.***

Or. en

Amendment 1728
Bernd Lange

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed

Amendment

2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed

which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals. ***This sentence 1 shall not apply with regard to the processing of data the purpose of which is the fulfilment of statutory obligations and/or which is in the public interest, insofar as such obligation or task is aimed at the best possible completeness of a data base. This in particular applies to telecommunications subscriber directories.***

Or. en

Amendment 1729
Alexander Alvaro

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as having regard to the state of the art and the cost of implementation, the controller shall endeavour to implement by default data protection enhancing technologies.

Or. en

Amendment 1730
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In implementing the provisions of this Regulation, it shall be ensured that no mandatory requirements for specific technical features are imposed on products and services, including terminal or other electronic communications equipment, which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.

Or. en

Amendment 1731
Josef Weidenholzer

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Products and services which are distributed in the EEA and inherently used to also process personal data shall be designed to enable controllers and processors, including controllers and processors which fall under Article 2(2)(d), to use them in compliance with this regulation.

Products and services which are especially customized for distribution in the EEA shall additionally be set to default settings in compliance with paragraph 2, if reasonable possible.

This duty applies to manufacturers of finished products and providers of services. Any person who, by putting his name, trade mark or other distinguishing feature on the product or service presents himself as its manufacturer, shall be

deemed to be the manufacturer.

If the manufacture cannot be determined or held accountable, this duty also applies to the person who imported products into the EEA for distribution in the course of his business or distributes such services in the EEA.

Or. en

Justification

Privacy by Design and Default should mainly apply to the entity which determines the design, software and functioning of a system. Controllers and processors are often times not determining the functionality of filing systems, therefore the producers should be equally bound by this article.

Amendment 1732
Alexander Alvaro

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.

deleted

Or. en

Amendment 1733
Nils Torvalds

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services. *deleted*

Or. en

Amendment 1734

Axel Voss

Proposal for a regulation

Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services. *deleted*

Or. en

Amendment 1735

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

Proposal for a regulation

Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to *deleted*

adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.

Or. es

Justification

This provision is unnecessary and should not be included.

Amendment 1736
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services. *deleted*

Or. en

Amendment 1737
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.

deleted

Or. en

Amendment 1738
Dimitrios Droutsas

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in *paragraph 1 and 2*, in particular for data protection by design requirements applicable across sectors, products and services.

3. The *European Data Protection Board shall be entrusted with the task* of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in *paragraphs 1, 2, and 2a*, in particular for data protection by design requirements applicable across sectors, products and services, *in accordance with Article 66*.

Or. en

Amendment 1739
Alexander Alvaro

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down

deleted

technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 1740
Sari Essayah

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2). **deleted**

Or. en

Justification

There is no need for delegated powers to this respect.

Amendment 1741

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

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2). **deleted**

Justification

The objective sought in this provision can be achieved by compiling lists of best practice that can be made available to those involved, without any need for a strictly regulatory approach.

Amendment 1742

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2). *deleted*

Or. en

Amendment 1743

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2). *deleted*

Or. en

Amendment 1744
Dimitrios Droutsas

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

deleted

Or. en

Amendment 1745
Alexander Alvaro

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Amendment

Where **a controller determines** the purposes, **conditions and** means of the processing of personal data jointly **with others**, the joint controllers shall **determine** their **respective** responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Where **several controllers share personal data by determining** the purposes **and** means of the processing of personal data jointly, the joint controllers shall **equally fulfil** their responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Or. en

Amendment 1746
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Where a controller determines the purposes, conditions and means of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment

Where a controller determines the purposes, conditions and means of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

To ensure that data subjects may exercise their right to object to this arrangement, it must be documented and data subjects must have been notified in advance; otherwise, the above rights may be exercised in full in relation to any of the controllers, who shall be responsible for ensuring that the conditions laid down by law are fully complied with.

Or. es

Justification

Este artículo podría perfectamente plantearse dos modelos, en un marco flexible, que permita a los actores del tratamiento elegir entre cada uno de ellos. Por una parte el modelo de la solidaridad, de forma que el interesado podría ejercitar la integridad de sus derechos frente a cualquiera de ellos, correspondiendo a los actores del tratamiento la carga de asegurar el cumplimiento íntegro de las obligaciones que les incumben. Por otra parte, cabe también perfectamente el modelo de la distribución de responsabilidades al que alude el precepto, si bien que para que este modelo pueda afectar a los interesados, es necesario que los mismos conozcan de forma clara y precisa ante quién deben ejercitar cada uno de los derechos. Ello conllevará necesariamente una serie de obligaciones de documentación y transparencia de los acuerdos.

Amendment 1747
Stanimir Ilchev

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Where a controller determines the purposes, conditions and means of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment

Where a controller determines the purposes, conditions and means of the processing of personal data jointly with others, ***he and they shall be joint data controllers. Where this regulation does not impose any particular obligations on the data controllers who are directly and indirectly responsible for the operation,*** the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Or. de

Amendment 1748

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

Where a controller determines the purposes, ***conditions and means*** of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment

Where a controller determines the purposes of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them. ***The arrangement shall duly reflect the joint controllers' respective effective roles and relationships vis-à-vis data subjects.***

Or. en

Justification

The arrangement to be entered into by joint controllers should be expressly required to duly reflect the joint controllers' respective roles and relationships with the data subjects. Joint controllers are not necessarily in an equal negotiation position when it comes to contractual agreements. Moreover, not all joint controllers enjoy a direct relationship with the data subject and they do not control the same kind and amount of personal data.

Amendment 1749

Louis Michel

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

Where a controller determines the purposes, *conditions and means* of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment

Where a controller determines the purposes of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Or. en

Amendment 1750

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

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

Where a controller determines the purposes, *conditions and means* of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this

Amendment

Where a controller determines the purposes of the processing of personal data jointly with others, the joint controllers shall determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the

Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Or. en

Amendment 1751

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 25 – paragraph 1

Text proposed by the Commission

1. In the situation referred to in Article 3(2), the controller shall designate a representative in the Union.

Amendment

1. In the situation referred to in Article 3(2), the controller shall designate a representative in the Union *to act as a facilitator between the data subject, the data protection supervisor and the third country data controller.*

Or. en

Amendment 1752

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 25 – paragraph 2

Text proposed by the Commission

2. This obligation shall not apply to:
(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance with Article 41; or
(b) an enterprise employing fewer than 250 persons; or

Amendment

deleted

- (c) a public authority or body; or*
- (d) a controller offering only occasionally goods or services to data subjects residing in the Union.*

Or. en

Amendment 1753
Louis Michel

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

Amendment

2. This obligation shall not apply to: *deleted*

(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance with Article 41; or

(b) an enterprise employing fewer than 250 persons; or

(c) a public authority or body; or

(d) a controller offering only occasionally goods or services to data subjects residing in the Union.

Or. en

Amendment 1754
Cornelia Ernst

Proposal for a regulation
Article 25 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a controller established in a third country where the Commission has decided that the third country ensures an adequate level of protection in accordance *deleted*

with Article 41; or

Or. en

Amendment 1755
Alexander Alvaro

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than 250 persons; or *deleted*

Or. en

Justification

Article is deleted in accordance with Article 35(1)(b) and in accordance with respect to context and risk principles pursuant to Articles 5a (new) and 5b (new).

Amendment 1756
Jan Mulder

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than 250 persons; or *deleted*

Or. en

Amendment 1757
Stanimir Ilchev

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than 250 persons; or

deleted

Or. de

Amendment 1758

Françoise Castex, Sylvie Guillaume

Proposal for a regulation

Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than **250** persons; or

(b) an enterprise employing fewer than **50** persons ***that is processing personal data only as an activity ancillary to its main activities and if processing is not carried out on special categories of personal data as referred to in Article 9(1);*** or

Or. en

Amendment 1759

Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski

Proposal for a regulation

Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than **250** persons; or

(b) an enterprise employing fewer than **250** persons, ***unless its core activities, regardless the number of the employees, consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects;*** or

Or. en

Amendment 1760
Dimitrios Droutsas

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

(b) an enterprise employing fewer than 250 persons; or

Amendment

(b) ***an enterprise processing personal data relating to fewer than 500 data subject per year, or by*** an enterprise employing fewer than 250 persons; or

Or. en

Amendment 1761
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

(b) an enterprise ***employing*** fewer than **250 persons**; or

Amendment

(b) an enterprise ***processing personal data relating to*** fewer than **500 data subjects per year**; or

Or. en

Amendment 1762
Marie-Christine Vergiat

Proposal for a regulation
Article 25 – paragraph 2 – point b

Text proposed by the Commission

(b) an enterprise ***employing*** fewer than 250 persons; or

Amendment

(b) an enterprise ***processing the personal data of*** fewer than 250 persons ***per year***; or

Or. fr

Justification

Amendment linked to the proposed amendment to Article 35(1)(b).

Amendment 1763

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

Proposal for a regulation

Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing fewer than 250 persons; o

(b) an enterprise employing fewer than 250 persons, ***unless the processing carried out by that enterprise is considered high risk by the supervisory authorities, taking account of its characteristics, the type of data or the number of people affected;*** o

Or. es

Amendment 1764

Carmen Romero López

Proposal for a regulation

Article 25 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) an enterprise employing ***fewer than*** 250 persons; or

(b) ***processing carried out by*** an enterprise employing 250 persons ***or more, or of one of the special categories of data listed in Article 9(1), or of personal data which could, if processed, threaten the reputation, income or employment of the data subject;*** o

Or. es

Justification

The concept of the risks attached to data processing, regardless of the size of the enterprise involved, needs to be taken into account when complying with the provisions of this article. The data subject may be placed at considerable risk by the processing of any personal data listed in one of the special categories, or liable to affect their assets, employment

circumstances or reputation.

Amendment 1765

Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation

Article 25 – paragraph 2 – point b

Text proposed by the Commission

(b) an enterprise employing fewer than **250** persons; or

Amendment

(b) an enterprise employing fewer than **50** persons *or processing the data of fewer than 250 data subjects*; or

Or. de

Amendment 1766

Cornelia Ernst

Proposal for a regulation

Article 25 – paragraph 2 – point c

Text proposed by the Commission

(c) *a public authority or body; or*

Amendment

deleted

Or. en

Amendment 1767

Alexander Alvaro

Proposal for a regulation

Article 25 – paragraph 2 – point d

Text proposed by the Commission

(d) a controller offering only occasionally goods or services to data subjects residing in the Union.

Amendment

(d) a controller offering only occasionally goods or services to data subjects residing in the Union, *providing it processes personal data of less than 5000 data subjects during any consecutive 12-month period.*

Justification

Article is amended in accordance with the respect to risk principle pursuant to Article 5b (new).

Amendment 1768

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed in relation to the offering of goods or services to them, or whose behaviour is monitored, reside.

deleted

Or. en

Amendment 1769

Alexander Alvaro

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed ***in relation to the offering of goods or services to them, or whose behaviour is monitored,*** reside.

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed reside.

Or. en

Justification

In line with amended territorial scope in Article 3.

Amendment 1770

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed *in relation to the offering of goods or services to them, or whose behaviour is monitored*, reside.

Amendment

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed reside.

Or. en

Amendment 1771

Dimitrios Droutsas

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed *in relation to the offering of goods or services to them, or whose behaviour is monitored*, reside.

Amendment

3. The representative shall be established in one of those Member States where the data subjects whose personal data are processed reside.

Or. en

Amendment 1772

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

Amendment

4. The designation of a representative by the controller shall be without prejudice to legal actions which could be initiated against the controller itself.

deleted

Or. en

Amendment 1773
Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

Amendment

1. Where **a** processing **operation** is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

1. Where processing is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Or. en

Justification

Linguistic clarification.

Amendment 1774
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Amendment

1. Where a processing operation is to be carried out on behalf of a controller **and involves the processing of data that would permit the processor to reasonably identify the data subject**, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

Or. en

Amendment 1775
Ewald Stadler

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the

Amendment

1. Where a processing operation is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the

processing to be carried out *and* shall ensure *compliance with* those measures.

processing to be carried out; *the controller* shall *also* ensure *that* those measures *have been complied with*.

Or. de

Amendment 1776

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

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller and stipulating in particular that the processor shall:

Amendment

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller, *which shall be documented in a form of which a record can be kept*, and stipulating in particular that the processor shall:

Or. es

Amendment 1777

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller *and stipulating in particular that the processor* shall:

Amendment

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller. *The controller and the processor shall be free to determine respective roles and responsibilities with respect to the requirements of this Regulation, and shall provide for the following:*

Or. en

Amendment 1778

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

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller *and stipulating in particular that the processor* shall:

Amendment

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller. *The controller and the processor shall be free to determine respective roles and responsibilities with respect to the requirements of this Regulation and shall provide for the following:*

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 1779

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) act only on instructions from the controller, in particular, where the transfer of the personal data used is prohibited;

Amendment

(a) *the processor shall* act only on instructions from the controller, in particular, where the transfer of the personal data used is prohibited;

Or. en

Amendment 1780

Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality; *deleted*

Or. en

Amendment 1781
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality; *deleted*

Or. en

Amendment 1782
Louis Michel

Proposal for a regulation
Article 26 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) take all required measures pursuant to Article 30; *deleted*

Or. en

Amendment 1783
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) enlist another processor only with the prior permission of the controller;

deleted

Or. en

Amendment 1784

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

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) enlist another processor only with the prior permission of the controller;

deleted

Or. en

Amendment 1785

Louis Michel

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) *enlist* another processor *only with the* prior permission of the controller;

(d) *determine the conditions for enlisting* another processor, *such as the need of specific or general* prior permission of the controller, *or the need of written agreement imposing the same obligations on the subprocessor as are imposed on the processor under this regulation;*

Or. en

Amendment 1786
Carmen Romero López

Proposal for a regulation
Article 26 – paragraph 2 – point d

Text proposed by the Commission

(d) enlist another processor only with the prior permission of the controller;

Amendment

(d) enlist another processor only with the prior permission of the controller, with the other processor subcontracted to provide personal data processing services being bound by the same contractual obligations or binding legal terms relating to personal data protection as the original processor;

Or. es

Justification

In cases such as cloud computing, when a series of different data processors maybe involved, the initial safeguards binding the controller should be maintained unbroken along the whole processing chain.

Amendment 1787
Louis Michel

Proposal for a regulation
Article 26 – paragraph 2 – point e

Text proposed by the Commission

(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the necessary technical and organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;

Amendment

deleted

Or. en

Amendment 1788

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

Proposal for a regulation

Article 26 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the necessary technical and organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;

deleted

Or. en

Amendment 1789

Alexander Alvaro

Proposal for a regulation

Article 26 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the necessary technical and organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;

(e) supply the controller on request with the necessary information it needs to respond to requests for exercising the data subject's rights laid down in Chapter III;

Or. en

Amendment 1790

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 2 – point e

Text proposed by the Commission

(e) insofar as this is possible given the nature of the processing, ***create in agreement with the controller the necessary*** technical and organisational requirements ***for the fulfilment of the controller's obligation*** to respond to requests for exercising the data subject's rights laid down in Chapter III;

Amendment

(e) insofar as this is possible given the nature of the processing ***and the processor's ability to assist with reasonable effort, an agreement as to the appropriate and relevant*** technical and organisational requirements ***which support the ability*** of the ***controller*** to respond to requests for exercising the data subject's rights laid down in Chapter III;

Or. en

Amendment 1791

Louis Michel

Proposal for a regulation

Article 26 – paragraph 2 – point f

Text proposed by the Commission

(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34;

Amendment

deleted

Or. en

Amendment 1792

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

Proposal for a regulation

Article 26 – paragraph 2 – point f

Text proposed by the Commission

(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34;

Amendment

deleted

Or. en

Amendment 1793
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point f

Text proposed by the Commission

(f) *assist the controller in ensuring* compliance with the obligations pursuant to Articles 30 to 34;

Amendment

(f) *insofar as this is possible given the nature of processing, the information available to the processor and his ability to assist with reasonable effort, an agreement on how compliance will be ensured* with the obligations pursuant to Articles 30 to 34;

Or. en

Amendment 1794
Ewald Stadler

Proposal for a regulation
Article 26 – paragraph 2 – point f

Text proposed by the Commission

(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34;

Amendment

(f) *Does not affect English text. The German original corrects ‘den Auftragsverarbeiter’ (the processor) to ‘den für die Verarbeitung Verantwortlichen’ (the data controller).*

Or. de

Amendment 1795
Louis Michel

Proposal for a regulation
Article 26 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) hand over all results to the controller after the end of the processing and not process the personal data otherwise; *deleted*

Or. en

Amendment 1796

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

Proposal for a regulation

Article 26 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) hand over all results to the controller after the end of the processing and not process the personal data otherwise; *deleted*

Or. en

Amendment 1797

Alexander Alvaro

Proposal for a regulation

Article 26 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) hand over all results to the controller after the end of the processing **and** not process the personal data otherwise;

(g) hand over all results to the controller after the end of the processing, not process the personal data otherwise **and delete existing copies without prejudice to Union or Member State laws;**

Or. en

Amendment 1798

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point g

Text proposed by the Commission

(g) hand over all results to the controller after the end of the processing **and** not process the personal data otherwise;

Amendment

(g) hand over all results to the controller after the end of the processing, not process the personal data otherwise **and delete existing copies without prejudice to Union or Member State laws**;

Or. en

Amendment 1799
Ewald Stadler

Proposal for a regulation
Article 26 – paragraph 2 – point g

Text proposed by the Commission

(g) **hand over** all results to the controller after the end of the processing and **not process the personal** data **otherwise**;

Amendment

(g) **return** all results to the controller after the end of the processing and **erase stored** data;

Or. de

Amendment 1800
Louis Michel

Proposal for a regulation
Article 26 – paragraph 2 – point h

Text proposed by the Commission

(h) make available to the controller and the supervisory authority all information necessary to control compliance with the obligations laid down in this Article.

Amendment

deleted

Or. en

Amendment 1801
Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 2 – point h

Text proposed by the Commission

(h) make available to the controller **and the supervisory authority** all information necessary to control compliance with the obligations laid down in this Article.

Amendment

(h) make available to the controller all information necessary to control compliance with the obligations laid down in this Article.

Or. en

Justification

Deletion in accordance with Article 53(2), where the investigative powers of the supervisory authorities are described in much more detail.

Amendment 1802
Jan Philipp Albrecht

Proposal for a regulation
Article 26 – paragraph 2 – point h

Text proposed by the Commission

(h) make available to the controller and the supervisory authority all information necessary to control compliance with the obligations laid down in this Article.

Amendment

(h) make available to the controller and the supervisory authority all information necessary to control compliance with the obligations laid down in this Article **and allow on-site inspections.**

Or. en

Justification

Because it is the controller who is held responsible for the data processing, he or she should be able to inspect on-site if the processor is following the instructions. This is based on German data protection law which was revised after several data protection scandals.

Amendment 1803
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 26 – paragraph 2 – point h

Text proposed by the Commission

(h) make available to the controller **and the supervisory authority** all information necessary to control compliance with the obligations laid down in this Article.

Amendment

(h) make available to the controller all information necessary to control compliance with the obligations laid down in this Article.

Or. en

Amendment 1804
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál, Georgios Papanikolaou

Proposal for a regulation
Article 26 – paragraph 2 – point h

Text proposed by the Commission

(h) make available to the controller and the supervisory authority all information necessary to control compliance with the obligations laid down in this Article.

Amendment

(h) make available to the controller and the supervisory authority **on request** all information necessary to control compliance with the obligations laid down in this Article.

Or. en

Amendment 1805
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 26 – paragraph 3

Text proposed by the Commission

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2.

Amendment

deleted

Justification

Es excesivamente burocrático. El que tengan que recogerse sin más todas las instrucciones por escrito puede constituir una carga desproporcionada, sobre todo si ahí se incluyen también las instrucciones que se vayan sucediendo una vez concluido el contrato y en el marco de éste. Piénsese que en determinados ámbitos las instrucciones pueden sucederse a diario y en cantidades muy elevadas. Por lo demás, normalmente las instrucciones operativas se cursarán en forma electrónica y quedará perfecta constancia de las mismas y, finalmente, es esta una cuestión que interesa básicamente a la relación entre el responsable y el encargado del tratamiento, pero que no tiene necesariamente que afectar directamente a la seguridad y a la privacidad.

Amendment 1806**Adina-Ioana Vălean, Jens Rohde****Proposal for a regulation****Article 26 – paragraph 3***Text proposed by the Commission**Amendment*

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2. **deleted**

Or. en

Amendment 1807**Axel Voss****Proposal for a regulation****Article 26 – paragraph 3***Text proposed by the Commission**Amendment*

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2.

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2. ***In this case the requirements of Chapter II are complied for the processor if the controller***

complies the requirements.

Or. en

Amendment 1808

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.

deleted

Or. en

Amendment 1809

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.

deleted

Or. en

Amendment 1810

Ewald Stadler

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.

deleted

Or. de

Amendment 1811
Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing **and shall be subject to the rules on joint controllers laid down in Article 24.**

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing.

Or. en

Justification

Where several controllers share personal data by determining the purposes and conditions of the processing of personal data jointly, the joint controllers shall equally fulfil their responsibilities for compliance with the obligations under this Regulation, in particular as regards the procedures and mechanisms for exercising the rights of the data subject, by means of an arrangement between them.

Amendment 1812
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24;
without prejudice to the responsibility which the controller may have occurred in relation to compliance with their obligations.

Or. es

Justification

Competing responsibilities may arise in certain cases, and mention should be made of this possibility. Without prejudice to the possibility that excesses on the part of the processor may lead to that processor having a personal obligation and responsibility for the processing (ultra vires), the possible existence of negligence in vigilance should not be ruled out.

Amendment 1813
Louis Michel

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing ***and shall be subject to the rules on joint controllers laid down in Article 24.***

Amendment

4. If a processor processes personal data other than as instructed by the controller, the processor shall be considered to be a controller in respect of that processing.

Or. en

Amendment 1814
Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where a processor processes pseudonymized data, it is of no difference to the rights and obligations of the processor, whether the controller or the processor holds the link to the personal identifiers which allow the data to be attributed to a data subject.

Or. en

Justification

Processing only pseudonymised data without holding the link to the personal identifiers shall not be used as excuse by processors.

Amendment 1815
Alexander Alvaro

Proposal for a regulation
Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting.

deleted

Or. en

Amendment 1816

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

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. *deleted*

Or. es

Justification

Unnecessary: if these aspects are considered essential, they should be covered in the text of the Regulation itself.

Amendment 1817

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and *deleted*

reporting.

Or. en

Amendment 1818

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. *deleted*

Or. en

Amendment 1819

Dimitrios Droutsas

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in *deleted*

particular for the purposes of control and reporting.

Or. en

Amendment 1820

Louis Michel

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting. **deleted**

Or. en

Amendment 1821

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

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal **deleted**

data within a group of undertakings, in particular for the purposes of control and reporting.

Or. en

Amendment 1822
Ewald Stadler

Proposal for a regulation
Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting.

deleted

Or. de

Amendment 1823
Jan Mulder

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission

Amendment

The processor and any person acting under the authority of the controller or of the processor who has access to personal data shall not process them except on instructions from the controller, unless required to do so by Union or Member State law.

The processor and any person acting under the authority of the controller or of the processor who has access to personal data shall ***keep the personal data confidential and*** not process them except on instructions from the controller, unless required to do so by Union or Member State law.

Amendment 1824
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission

The processor and any person acting under the authority of the controller or of the processor who has access to personal data shall not process them except on instructions from the controller, ***unless required to do so by Union or Member State law.***

Amendment

The processor and any person acting under the authority of the controller or of the processor who has access to personal data shall not process them except on instructions from the controller, ***in accordance with Article 6.***

Amendment 1825
Alexander Alvaro

Proposal for a regulation
Article 28

Text proposed by the Commission

Documentation

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

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

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

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

(c) the purposes of the processing,

Amendment

deleted

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

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

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

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

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

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

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

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

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

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

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

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

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

Or. en

Justification

Documentation for the sake of documentation is not practical. Necessary requirements which are not already required under Article 14 have been inserted in the impact assessment requirements under Article 33.

Amendment 1826
Sarah Ludford

Proposal for a regulation
Article 28

Text proposed by the Commission

Amendment

Documentation

deleted

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

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

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

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

(c) the purposes of the processing, including the legitimate interests pursued by the controller where the processing is

based on point (f) of Article 6(1);

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

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

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

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

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

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

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

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

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

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

the controller's representative.

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

Or. en

Justification

This is over-prescriptive.

Amendment 1827

Stanimir Ilchev

Proposal for a regulation

Article 28 – title

Text proposed by the Commission

Amendment

Documentation

Documentation requirement: processor

Or. de

Justification

Since the documentation requirement for the data controller is now governed by Article 14, this article now covers only the documentation requirement for the processor. However, this is coupled with the documentation requirement for the requester in order to avoid two differing rules giving rise to extra work.

Amendment 1828

Stanimir Ilchev

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

Amendment

1. Each **controller and** processor **and, if any, the controller's representative**, shall

1. Each processor shall maintain documentation of all processing operations

maintain documentation of all processing operations under its responsibility.

under its responsibility

Or. de