AMENDMENTS (6)
1829 - 2090

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 – 2011/0011(COD))
Amendment 1829
Philippe Juvin

Proposal for a regulation
Article 28 – paragraph 1

**Text proposed by the Commission**

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

**Amendment**

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

**Or. fr**

*Justification*

In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry, namely the controller.

Amendment 1830
Sophia in 't Veld

Proposal for a regulation
Article 28 – paragraph 1

**Text proposed by the Commission**

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

**Amendment**

1. Each controller and processor *shall be able to demonstrate compliance with the provisions of this Regulation on request of the supervisory authority.*

**Or. en**

Amendment 1831
Jan Mulder

Proposal for a regulation
Article 28 – paragraph 1
1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Amendment

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of processing operations if those operations pose a risk as stated in Article 33(2), so that it can at all times demonstrate compliance with this regulation.

Or. en

Amendment 1832
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Each controller and, if any, the controller's representative, shall ensure that they are in a position duly to inform the authorities which so request of all processing operations under its responsibility.

Or. es
Justification

A clear and universal principle of accountability should be prescribed as the general rule - i.e. that controllers must always ensure that they are in a position duly to inform the authorities which so request of all processing operations under their responsibility.

Amendment 1834
Wim van de Camp

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Each controller shall maintain an overview of all processing operations under its responsibility, which pose a high degree of risk to the fundamental rights of the data subjects, in particular their right to privacy, pursuant to the outcome of the privacy impact assessment as referred to in Article 33.

Or. en

Justification

The organisational size criterion (>250 employees) is not useful to differentiate between organisations with respect to the scope of this article. Instead, a risk-based approach in Article 28 would be better suited to achieve the goals of this Regulation, similar to the notification requirement of Article 18 of the current Directive, which this article replaces. The Directive allowed for the exemption of a wide range of processing categories, which do not pose a significant risk for the fundamental rights of the data subject. It is therefore consistent to allow also for a similar risk-based exemption with regard to the documentation requirements under Article 28 and to limit those to processing that pose a high degree of risk for the data subject. Although organisations with a high maturity level in compliance and risk management would consider the documentation of data processing sound risk management, requiring all organisations to document each and every form of data processing taking place in the organisation (from the main customer database down to the department birthday list) would place an excessive and disproportional burden on organisations, and would not be consistent with the statements of the Commission with regard to implementation cost. In order to determine a high degree of risk, reference is made to the privacy impact assessment of Article 33. When the privacy impact assessment indicates a high degree of risk, the documentation obligation is triggered.
Amendment 1835
Nathalie Griesbeck

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

This amendment seeks to make the documentation requirement more effective.

Amendment 1836
Louis Michel

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 1837
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 28 – paragraph 1
1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of all processing operations under its responsibility.

Amendment

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

Amendment 1838
Marie-Christine Vergiat
Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 1839
Timothy Kirkhope
on behalf of the ECR Group
Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Each controller and processor and, if any, the controller's representative, shall maintain documentation of processing operations under its responsibility regarding data handling practices, including what purpose data processing is being carried out for and for which data controller.
Amendment 1840
Ewald Stadler

Proposal for a regulation
Article 28 – paragraph 1

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

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

Or. de

Amendment 1841
Sophia in ’t Veld

Proposal for a regulation
Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment
1a. Without prejudice to the other provisions of this Regulation, each controller and processor shall maintain documentation on transfers of data to a third country or an international organisation, including the identification of that third country or international organisation, the organisation, enterprise, public organisation or competent authority concerned, the legal basis of the transfer, and, in case of transfers referred to in point (h) of Article 44(1), the documentation of appropriate safeguards.

Or. en
Amendment 1842
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The obligation made to the controller shall not apply to SMEs processing data only as an activity ancillary to the sale of goods or services. Ancillary activity should be defined as business or non-trade activity that is not associated with the core activities of a firm. In relation to data protection, data processing activities which do not represent more than 50% of company's turnover shall be considered ancillary.

Or. en

Amendment 1843
Sophia in 't Veld

Proposal for a regulation
Article 28 – paragraph 2

Text proposed by the Commission

Amendment

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).

Or. en

Amendment 1844
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

2. Enterprises or organisations which do not have a data protection officer or sufficient valid certification shall hold the statutory model documentation for all processing operations under their responsibility. That documentation shall contain at least the following information:

Or. es

Amendment 1845
Wim van de Camp
Proposal for a regulation
Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The contact details of the controller are known to the controller and irrelevant for the purpose of documentation; the name and contact details of the DPO are known to the controller. Having to document them per set of processing operations would put an unreasonable compliance burden on the controller, as DPO’s change.

Amendment 1846
Dimitrios Droutsas

Proposal for a regulation
Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

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).

Or. en

Justification

The content of Article 28 on documentation requirements is moved to Article 14 on information rights. The proposed regulation can be simplified by merging information and documentation, essentially being two sides of the same coin. This will reduce administrative burdens for data controllers and make it easier for individuals to understand and exercise their rights. See related amendments to Article 14.

Amendment 1847
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 28 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. The documentation shall contain at least the following information:</td>
<td>2. The documentation should contain at least the following information:</td>
</tr>
</tbody>
</table>

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

2. Such documentation shall contain the following information:

Or. en

Amendment 1849
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point a

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

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

Or. en

Amendment 1850
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 2 – point a

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

(a) the name and contact details of the processor;

Or. de
Amendment 1851
Wim van de Camp

Proposal for a regulation
Article 28 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

The contact details of the controller are known to the controller and irrelevant for the purpose of documentation; the name and contact details of the DPO are known to the controller. Having to document them per set of processing operations would put an unreasonable compliance burden on the controller, as DPO’s change.

Amendment 1852
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 28 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

deleted

Or. es

Amendment 1853
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

(b) the name and contact details of the data protection organisation or data protection

organisation or data protection
officer, if any;

Amendment 1854
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 2 – point c

Text proposed by the Commission

(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);

Amendment

deleted

(c) the generic purposes of the processing;

Amendment 1855
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point c

Text proposed by the Commission

(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);

Amendment

(c) the generic purposes of the processing;

Amendment 1856
Stanimir Ilichev

Proposal for a regulation
Article 28 – paragraph 2 – point c
(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);

(c) the information pursuant to Article 14(1) if the processor is acting on behalf of a controller directly responsible for the operation;

Or. de

Amendment 1857
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 2 – point d

Text proposed by the Commission

(d) a description of categories of data subjects and of the categories of personal data relating to them;

deleted

Or. en

Amendment 1858
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 2 – point d

Text proposed by the Commission

(d) a description of categories of data subjects and of the categories of personal data relating to them;

(d) the information pursuant to Article 14(2) if the processor is acting for a controller indirectly responsible for the operation;

Or. de

Amendment 1859
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 28 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(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;

deleted

Or. en

Amendment 1860
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(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;

deleted

Or. en

Amendment 1861
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(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;

deleted

Or. de
### Justification

*Rendered superfluous by the provision above.*

**Amendment 1862**  
Cornelia Ernst, Marie-Christine Vergiat

**Proposal for a regulation**  
Article 28 – paragraph 2 – point e

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(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;</td>
<td>(e) the recipients of the personal data, including the controllers to whom personal data are disclosed for the legitimate interest pursued by them;</td>
</tr>
</tbody>
</table>

**Or. en**

**Amendment 1863**  
Adina-Ioana Vălean, Jens Rohde

**Proposal for a regulation**  
Article 28 – paragraph 2 – point f

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(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;</td>
<td>deleted</td>
</tr>
</tbody>
</table>

**Or. en**

**Amendment 1864**  
Stanimir Ilchev
Proposal for a regulation
Article 28 – paragraph 2 – point f

Text proposed by the Commission

(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;

Amendment

deleted

Or. de

Justification

Rendered superfluous by the provision above.

Amendment 1865
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point f

Text proposed by the Commission

(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;

Amendment

(f) where applicable, transfers of personal data to a third country or an international organisation, and, in case of transfers referred to in point (h) of Article 44(1), a reference to safeguards employed;

Or. en

Amendment 1866
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 2 – point g
(g) a general indication of the time limits for erasure of the different categories of data;

Amendment 1867
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 2 – point g

Text proposed by the Commission
(g) a general indication of the time limits for erasure of the different categories of data;

Amendment
deleted

Or. en

Justification
Rendered superfluous by the provision above.

Amendment 1868
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point g (new)

Text proposed by the Commission
(g) a general indication of the time limits for erasure of the different categories of data;

Amendment
(g) a general indication of the time limits for erasure or data retention policy applicable to the different categories of data;

Or. en
### Amendment 1869

**Marie-Christine Vergiat**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point g**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(g) a general indication of the time limits for erasure of the different categories of data;</td>
<td>(g) a general indication of the time limits for erasure or archiving of the different categories of data;</td>
</tr>
</tbody>
</table>

**Justification**

*Amendment proposed by the French Higher Council of Notaries: the documentation which controllers are required to maintain must contain a number of different items of information (Article 28). However, some categories of information must not be erased, but archived. The proposal for a regulation makes no mention of this possibility. The rules on documentation should draw a distinction between the time limits for erasure and those for archiving.*

### Amendment 1870

**Agustín Díaz de Mera García Consuegra**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point g**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tbody>
<tr>
<td>(g) a general indication of the time limits for erasure of the different categories of data;</td>
<td>(g) a general indication of the time limits for erasure of the different categories of data, wherever possible;</td>
</tr>
</tbody>
</table>

**Justification**

*Some flexibility is needed since, in the case of many processing operations, this item of data cannot be provided, or only a very rough idea can be given.*

### Amendment 1871

**Hélène Flautre**
Proposal for a regulation
Article 28 – paragraph 2 – point g

Text proposed by the Commission
(g) a general indication of the time limits for erasure of the different categories of data;

Amendment
(g) a general indication of the time limits for erasure and conservation of the different categories of data;

Amendment 1872
Axel Voss

Proposal for a regulation
Article 28 – paragraph 2 – point g a (new)

Text proposed by the Commission
(ga) where the processor processes personal data in a third country a general indication of the national obligations of the law in the third country;

Amendment

Justification
In case of a national obligation in a third country law might be of interest of the data subject.

Amendment 1873
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 2 – point h

Text proposed by the Commission
(h) the description of the mechanisms referred to in Article 22(3);

Amendment
deleted

Or. de
Justification

Rendered superfluous by the provision above.

Amendment 1874
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 2 – point h

Text proposed by the Commission  Amendment
(h) the description of the mechanisms referred to in Article 22(3).  deleted

Or. en

Amendment 1875
Louis Michel

Proposal for a regulation
Article 28 – paragraph 2 – point h

Text proposed by the Commission  Amendment
(h) the description of the mechanisms referred to in Article 22(3).  deleted

Or. en

Amendment 1876
Sophia in 't Veld

Proposal for a regulation
Article 28 – paragraph 3

Text proposed by the Commission  Amendment
3. The controller and the processor and, if any, the controller's representative, shall make the documentation available, on request, to the supervisory authority.  deleted
Amendment 1877
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 3

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

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

Justification
Moved to Article 29(3).

Amendment 1878
Cornelia Ernst

Proposal for a regulation
Article 28 – paragraph 3

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

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

Amendment 1879
Philippe Juvin

Proposal for a regulation
Article 28 – paragraph 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.

Amendment

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

Or. fr

Justification

In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry, namely the controller.

Amendment 1880
Wim van de Camp

Proposal for a regulation
Article 28 – paragraph 3

Text proposed by the Commission
Amendment

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

Or. en

Justification

In all cases, the controller should make the documentation available to the supervisory authority. A corresponding obligation for the processor has been proposed in Article 26.

Amendment 1881
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 28 – paragraph 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.

**Amendment**

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

**Or. en**

**Amendment 1882**

**Timothy Kirkhope**

on behalf of the ECR Group

Proposal for a regulation

Article 28 – paragraph 3

**Text proposed by the Commission**

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

**Amendment**

However, equal emphasis and significance must be placed on good practice and compliance and not just the completion of documentation.

**Or. en**

**Amendment 1883**

**Louis Michel**

Proposal for a regulation

Article 28 – paragraph 3

**Text proposed by the Commission**

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

**Amendment**

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

**Or. en**
Amendment 1884
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Renate Sommer, Wim van de Camp, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 28 – paragraph 3

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3. The controller and the processor and, if any, the controller's representative, shall make the documentation available, on request, to the supervisory authority.</td>
<td>3. The controller and, if any, the controller's representative, shall make the documentation available, on request, to the supervisory authority.</td>
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</tbody>
</table>

Amendment 1885
Louis Michel

Proposal for a regulation
Article 28 – paragraph 3 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3a. In the case of a group of undertakings where each data controller within the group of undertakings carries out substantively the same type of processing operation, only one set of documentation shall be kept at group level.</td>
<td></td>
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</tbody>
</table>

Amendment 1886
Louis Michel

Proposal for a regulation
Article 28 – paragraph 3 b (new)

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<td>3b. Where a controller engages a</td>
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</table>
processor, the controller shall be responsible for maintaining the documentation referred to in Article 28(1) and can require the processor to provide assistance in compiling the information.

Or. en

Amendment 1887
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The obligations referred to in paragraphs 1 and 2 shall not apply to a natural person processing personal data without a commercial interest.

Or. de

Amendment 1888
Sophia in 't Veld

Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

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

Amendment

4. The obligation referred to in paragraphs 1 shall not apply to a natural person processing personal data without a commercial interest.
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.

Amendment 1889
Wim van de Camp

Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The obligations referred to in paragraphs 1 and 2 shall not apply to natural persons processing personal data without a commercial interest.

Justification

As size is not relevant, Article 28(4)(b) can be deleted.

Amendment 1890
Dimitrios Droutsas

Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The obligations referred to in paragraphs 1 and 2 shall not apply to natural persons processing personal data without a commercial interest.
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.

Or. en

Amendment 1891
Philippe Juvin

Proposal for a regulation
Article 28 – paragraph 4 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

In order to avoid imposing a further and essentially unnecessary administrative burden, responsibility for maintaining documentation should be limited to only one point of entry, namely the controller.

Amendment 1892
Axel Voss

Proposal for a regulation
Article 28 – paragraph 4 – introductory part

Text proposed by the Commission

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

Amendment

4. The obligations referred to in paragraphs 1, 2 and 3 shall not apply to the following
controllers and processors:  controllers and processors:

Amendment 1893
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 28 – paragraph 4 – introductory part

Text proposed by the Commission  Amendment

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

Or. en

Amendment 1894
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 28 – paragraph 4 – introductory part

Text proposed by the Commission  Amendment

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

Or. en

Amendment 1895
Louis Michel
Proposal for a regulation
Article 28 – paragraph 4 – introductory part

Text proposed by the Commission  Amendment

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

Or. en
Proposal for a regulation
Article 28 – paragraph 4 – point a

Text proposed by the Commission
(a) a natural person processing personal data without a commercial interest; or

Amendment
(a) a natural person processing personal data without a commercial interest, unless personal data is made accessible for a large number of persons or a large amount of personal data about the data subjects are processed or combined or aligned with other personal data.

Proposal for a regulation
Article 28 – paragraph 4 – point b
(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.

Amendment 1899
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 28 – paragraph 4 – point b

Text proposed by the Commission

(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.

Or. en

Amendment 1900
Claude Moraes, Glenis Willmott

Proposal for a regulation
Article 28 – paragraph 4 – point b

Text proposed by the Commission

(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, unless the enterprise or organisation is processing certain categories of sensitive personal data, as defined under Article 9(1).

Or. en
**Justification**

Detailed requirements concerning documentation have been introduced presumably with a view to increasing data privacy. The proposals suggest that these requirements would not apply to organisations defined under Article 28(4)(b). There should not be a lower level of protection based on the number of employees an organization has where the processing of data concerns data categorized as sensitive under Article 9(1).

**Amendment 1901**
Sari Essayah, Eija-Riitta Korhola

**Proposal for a regulation**
Article 28 – paragraph 4 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
<td>(b) an enterprise or an organisation that is processing personal data only as an activity ancillary to its main activities.</td>
</tr>
</tbody>
</table>

**Justification**

The limit of 250 employees places employers in an unequal position, is discriminatory against larger enterprises and is by no means necessary for reaching the aim. The number of employees doesn’t correlate with the amount or type of personal data kept by the organization. A small organization with just a few employees can control a huge amount of delegate personal data and vice versa. Furthermore, the limit is not in all aspects easily interpreted.

**Amendment 1902**
Timothy Kirkhope
on behalf of the ECR Group

**Proposal for a regulation**
Article 28 – paragraph 4 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) an enterprise or an organisation employing fewer than 250 persons that is processing personal data only as an activity</td>
<td>(b) an enterprise or an organisation employing fewer than 500 persons that is processing personal data only as an activity</td>
</tr>
</tbody>
</table>
ancillary to its main activities. ancillary to its main activities.

Amendment 1903
Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation
Article 28 – paragraph 4 – point b

Text proposed by the Commission

(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.

Amendment

(b) an enterprise or an organisation employing fewer than 50 persons that is processing personal data relating to fewer than 250 data subjects only as an activity ancillary to its main activities.

Amendment 1904
Nils Torvalds

Proposal for a regulation
Article 28 – 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 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.

Amendment

deleted

Or. en

Amendment 1905
Sophia in 't Veld

AM\929511EN.doc 35/136 PE506.166v03-00
Proposal for a regulation
Article 28 – 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 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.

Amendment 1906
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 28 – 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 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.

Amendment 1907
Stanimir Ilchev

Proposal for a regulation
Article 28 – paragraph 5
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.

Or. de

Justification

Authorisation is already provided for by Article 14.

Amendment 1908
Dimitrios Droutsas

Proposal for a regulation
Article 28 – paragraph 5

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.

Or. en

Amendment 1909
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 28 – 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 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.

Amendment

Or. en

Amendment 1910
Louis Michel

Proposal for a regulation
Article 28 – 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 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.

Or. en

Amendment 1911
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 28 – paragraph 5
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.
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. de

Justification

Dealt with by Article 14.

Amendment 1914
Dimitrios Droutsas

Proposal for a regulation
Article 28 – paragraph 6

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 1915
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 28 – paragraph 6

Text proposed by the Commission

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

Amendment

6. The Commission shall lay down standard forms for the documentation referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).
Amendment 1916
Louis Michel

Proposal for a regulation
Article 28 – paragraph 6

**Text proposed by the Commission**

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

**Amendment**

6. To ensure harmonized requirements within the Union, 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

Amendment 1917
Sophia in 't Veld

Proposal for a regulation
Article 28 – paragraph 6

**Text proposed by the Commission**

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

**Amendment**

6. The European Data Protection Board shall be entrusted with the task of adopting guidelines for the format of the documentation referred to in paragraph 1.

Or. en

Amendment 1918
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 29 – paragraph 1

AM\929511EN.doc 41/136 PE506.166v03-00
Text proposed by the Commission

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

Amendment

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

Justification

The wording of the first paragraph should make it clear that, unlike the controller, the processor will be called on where appropriate and not as a general rule.

Amendment 1919
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The controller and the processor and, if any, the representative of the controller, shall co-operate, on request, with the supervisory authority in the performance of its duties, in particular by providing the information referred to in point (a) of Article 53(2) and by granting access as provided in point (b) of that paragraph. The controller and the processor and, if any, the representative of the controller, shall make the documentation available, on the basis of a request outlining the reasons for requiring access to the documents, to the supervisory authority.

Or. en
Amendment 1920
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 29 – paragraph 2

Text proposed by the Commission

2. In response to the supervisory authority's exercise of its powers under Article 53(2), the controller and the processor shall reply to the supervisory authority within a reasonable period to be specified by the supervisory authority. The reply shall include a description of the measures taken and the results achieved, in response to the remarks of the supervisory authority.

Amendment

2. In response to the supervisory authority's exercise of its powers under Article 53(2), the controller, either in person or through his representative, and the processor shall reply to the supervisory authority within a reasonable period to be specified by the supervisory authority. The reply shall include a description of the measures taken and the results achieved, in response to the remarks of the supervisory authority.

Or. es

Justification

A reference is needed to representatives in the case of controllers not established in the Union.

Amendment 1921
Stanimir Ilchev

Proposal for a regulation
Article 29 – paragraph 2 a (new)

Text proposed by the Commission

2a. The controller, his representative and the processor shall make available to the supervisory authority, on request, the documentation referred to in Article 14 or 28 as the case may be.

Amendment

Or. de
Amendment 1922
Alexander Alvaro

Proposal for a regulation
Article 30 – paragraph 1

**Text proposed by the Commission**

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.

**Amendment**

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing, having regard to the state of the art and the costs of their implementation.

**Or. en**

**Justification**

*Article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.*

Amendment 1923
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 30 – paragraph 1

**Text proposed by the Commission**

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.

**Amendment**

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing, having regard to the state of the art and the costs of their implementation.

**Or. en**
### Amendment 1924
Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier

**Proposal for a regulation**
**Article 30 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.</td>
<td>1. The controller and the processor shall implement appropriate technical and organisational measures, including pseudonymisation, to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.</td>
</tr>
</tbody>
</table>

### Amendment 1925
Cornelia Ernst, Marie-Christine Vergiat

**Proposal for a regulation**
**Article 30 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.</td>
<td>1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art.</td>
</tr>
</tbody>
</table>

### Amendment 1926
Sarah Ludford
Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, having regard to the state of the art and the costs of their implementation.

Amendment

1. Having regard to the state of technological development and the cost of implementation, the controller must implement appropriate technical and organisational measures to ensure a level of security in relation to the processing personal data that is appropriate to:

(a) the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage as mentioned in Article 5(1)(ea), and
(b) the nature and scope of the data to be processed.

Justification

This is better drafting.

Amendment 1927
Alexander Alvaro

Proposal for a regulation
Article 30 – paragraph 1 a (new)

Text proposed by the Commission

1a. Having regard to the state of the art and the cost of implementation, such a security policy shall include:

(a) the ability to ensure that the integrity of the personal data is validated;
(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of systems and services processing personal data;
(c) the ability to restore the availability and access to data in a timely manner in the event of a physical or technical incident that impacts the availability, integrity and confidentiality of information systems and services;

(d) in the case of sensitive personal data processing according to Articles 8 and 9, additional security measures to ensure situational awareness of risks and the ability to take preventive, corrective and mitigating action in near real time against vulnerabilities or incidents detected that could pose a risk to the data;

(e) a process for regularly testing, assessing and evaluating the effectiveness of security policies, procedures and plans put in place to ensure ongoing effectiveness.

Or. en

Justification

Promotion of physical data protection and network security.

Amendment 1928
Alexander Alvaro

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.

Amendment

2. The measures referred to in paragraph 1 shall at least:

(a) ensure that personal data can be
accessed only by authorised personnel for legally authorised purposes;

(b) protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration, and unauthorised or unlawful storage, processing, access or disclosure; and

(c) ensure the implementation of a security policy with respect to the processing of personal data.

Or. en

Justification

The article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.

Amendment 1929
Joanna Senyszyn

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.

Amendment

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data. Where a controller has carried a data protection impact assessment pursuant to Article 33, the results of this assessment shall be taken into account in the evaluation of the risks.

Or. en
Text proposed by the Commission

2. The controller and the processor shall, following an evaluation of the risks, take the measures referred to in paragraph 1 to protect personal data against accidental or unlawful destruction or accidental loss and to prevent any unlawful forms of processing, in particular any unauthorised disclosure, dissemination or access, or alteration of personal data.

Amendment

2. The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected, such as pseudonymisation, having regard to the state of the art and the costs of their implementation.

Or. en

Proposal for a regulation

2. In complying with the principle as set out at Article 5(1)(ea), a controller must consider any relevant guidance drawn up by the supervisory authority under Article 38.

Or. en

Justification

Guidance from the national supervisory authorities could be helpful for data controllers in implementing security of processing.
Amendment 1932
Axel Voss

Proposal for a regulation
Article 30 – paragraph 2 a (new)

Text proposed by the Commission

2a. The legal obligations, as referred to in paragraphs 1 and 2, which would require processing of personal data to the extent strictly necessary for the purposes of ensuring network and information security, constitute a legitimate interest pursued by or on behalf of a data controller or processor, as referred to in Article 6(1)(f).

Amendment

Or. en

Justification

Taken from ITRE-Opinion.

Amendment 1933
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 30 – paragraph 2 a (new)

Text proposed by the Commission

2a. The legal obligations, as referred to in paragraphs 1 and 2, which would require processing of personal data to the extent strictly necessary for the purposes of ensuring network and information security, constitute a legitimate interest pursued by, or on behalf of a data controller or processor.

Amendment

Or. en
Amendment  1934
Alexander Alvaro

Proposal for a regulation
Article 30 – 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 further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Or. en

Amendment  1935
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 30 – 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 further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection
Justification

Those concerned must be given adequate margin for manoeuvre in deciding what security measures to adopt in accordance with the specific characteristics of each sector and subsector, without the need for more detailed rules in the form of delegated acts.

Amendment 1936
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 30 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Or. en

Amendment 1937
Sarah Ludford

Proposal for a regulation
Article 30 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to

Or. es
adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Or. en

Justification

The appropriate use of technical and organisational measures to ensure security of processing is an operational function requiring specialist regulatory expertise rather than further legislation.

Amendment 1938
Dimitrios Droutsas

Proposal for a regulation
Article 30 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Amendment

3. The European Data Protection Board shall be entrusted with the task of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies, in accordance with Article 66.

Or. en
Amendment 1939
Ioan Enciu

Proposal for a regulation
Article 30 – paragraph 3

**Text proposed by the Commission**

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

**Amendment**

3. The European Data Protection Board in cooperation with the European Network and Information Security Agency (ENISA) shall be entrusted with the task of further specifying the criteria and conditions for the technical and organisational measures referred to in paragraphs 1 and 2, including the determinations of what constitutes the state of the art, for specific sectors and in specific data processing situations, in particular taking account of developments in technology and solutions for privacy by design and data protection by default, unless paragraph 4 applies.

Or. en

Amendment 1940
Axel Voss

Proposal for a regulation
Article 30 – paragraph 4

**Text proposed by the Commission**

4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

(a) prevent any unauthorised access to personal data;

(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or
removal of personal data;
(c) ensure the verification of the lawfulness of processing operations.

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

Amendment 1941
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 30 – paragraph 4

4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

a) prevent any unauthorised access to personal data;

b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;

c) ensure the verification of the lawfulness of processing operations.

Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Justification

Those concerned must be given adequate margin for manoeuvre in deciding what security measures to adopt in accordance with the specific characteristics of each sector and subsector, without the need for more detailed rules in the form of delegated acts.
Amendment 1942
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 30 – paragraph 4

Text proposed by the Commission

4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

(a) prevent any unauthorised access to personal data;

(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;

(c) ensure the verification of the lawfulness of processing operations.

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

Amendment 1943
Sarah Ludford

Proposal for a regulation
Article 30 – paragraph 4

Text proposed by the Commission

4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

(a) prevent any unauthorised access to personal data;

(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or
removal of personal data;
(c) ensure the verification of the lawfulness of processing operations.

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

Justification

The appropriate use of technical and organisational measures to ensure security of processing is an operational function requiring specialist regulatory expertise rather than further legislation.

Amendment 1944
Dimitrios Droutsas

Proposal for a regulation
Article 30 – paragraph 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. The Commission may adopt, where necessary, implementing acts for specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:</td>
<td>deleted</td>
</tr>
<tr>
<td>(a) prevent any unauthorised access to personal data;</td>
<td></td>
</tr>
<tr>
<td>(b) prevent any unauthorised disclosure, reading, copying, modification, erasure or removal of personal data;</td>
<td></td>
</tr>
<tr>
<td>(c) ensure the verification of the lawfulness of processing operations.</td>
<td></td>
</tr>
</tbody>
</table>

Amendment 1945
Alexander Alvaro
Proposal for a regulation
Article 30 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission
The Commission *may adopt, where necessary, implementing acts for*
specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

Amendment
The Commission *shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of* specifying the requirements laid down in paragraphs 1 and 2 to various situations, in particular to:

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 1946
Alexander Alvaro

Proposal for a regulation
Article 30 – paragraph 4 – subparagraph 2

Text proposed by the Commission
*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).*

Amendment
deleted

Or. en

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

Amendment 1947
Petru Constantin Luhan

Proposal for a regulation
Article 31 – paragraph 1
Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, when the breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. en

Amendment 1948
Alexander Alvaro

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay notify the personal data breach to the supervisory authority.

Or. en

Justification

Article is adjusted to the wording of the e-privacy Directive to avoid two different sets of rules for a single company.
Amendment 1949
Jan Mulder

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay and as soon as possible, after having become aware of it, notify the personal data breach to the supervisory authority in the member state where the controller is established.

Or. en

Amendment 1950
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach such as to constitute a serious risk to personal data privacy, the controller shall without undue delay notify the personal data breach to the supervisory authority.

Or. es

Justification

The 24-hour deadline set may in many cases be impracticable. The main thing is to establish
a reasonable time limit, meaning that it is better simply to use the term ‘without undue delay’. However, this does not preclude a solution such as that proposed by the Article 29 Group, which has suggested a two-step procedure, with immediate or ‘without undue delay’ notification of the existence of a problem, followed by a more detailed report within a longer – but still limited – timescale.

Amendment 1951
Michèle Striffler

Proposal for a regulation
Article 31 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</td>
<td>1. In the case of a major personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</td>
</tr>
</tbody>
</table>

**Justification**

In order not to overburden the supervisory authorities, a distinction should be drawn between major and minor incidents, on the basis of qualitative and quantitative criteria.

Amendment 1952
Nils Torvalds

Proposal for a regulation
Article 31 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority, the controller shall without undue delay and, where</td>
<td>1. In the case of a personal data breach which is likely to adversely affect the data subject and the protection of the personal data of the data subject, the controller shall without undue delay and, where</td>
</tr>
</tbody>
</table>
authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Or. en

Amendment 1953
Wim van de Camp

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. Where a personal data breach is likely to have a significant adverse effect on the interests, rights and freedoms of the data subjects, especially their right to privacy, the controller, after having become aware of it, shall without unreasonable delay notify the personal data breach to the supervisory authority.

Or. en

Justification

In order to maintain the proportionality between the administrative burden to notify the supervisory authority (and the data subject) and the risk which the personal data breach likely poses to the data subject and to avoid that trifle breaches, which pose little or no harm to data subject, are notified, the amendment limits the scope of the obligation to notify the supervisory authority to personal data breaches which are "likely to have a significant adverse effect on the rights and freedoms of the data subjects, especially their right to privacy". This risk could be determined by the execution of a risk assessment similar to the privacy impact assessment referred to in Article 33. Pursuant to paragraph 6, the Commission may adopt standards for the determination of such risk, e.g., similar to the standards for notifying product safety issues in the EU. Furthermore, as the priority of the controller in case of a personal data breach should be to address the breach and to limit its consequences, the 24 hour time window for the notification is deleted and replaced by
“without unreasonable delay”. It’s up to the supervisory authority to determine whether in a particular case the delay was reasonable. See also amendment to Article 32.

Amendment 1954
Dimitrios Droutsas

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 72 hours.

Or. en

Amendment 1955
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, when the breach is likely to adversely affect the protection of the personal data or the privacy of the data subject, the controller shall without undue delay notify the personal data breach to the supervisory authority.

Or. en
### Amendment 1956

**Louis Michel**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</td>
<td>1. In the case of a personal data breach which causes or is likely to cause significant adverse effect on the privacy of the data subject, the controller shall after having become aware, fully investigated and confirmed it, without undue delay, notify the personal data breach to the supervisory authority.</td>
</tr>
</tbody>
</table>

Or. en

### Amendment 1957

**Axel Voss, Monika Hohlmeier, Seán Kelly, Renate Sommer, Véronique Mathieu Houillon, Lara Comi, Hubert Pirker, Salvatore Iacolino**

**Proposal for a regulation**  
**Article 31 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</td>
<td>1. In the case of a personal data breach relating to special categories of personal data, personal data which are subject to professional secrecy, personal data relating to criminal offences or to the suspicion of a criminal act or personal data relating to bank or credit card accounts, which seriously threaten the rights or legitimate interests of the data subject, the controller shall without undue delay notify the personal data breach to the supervisory authority.</td>
</tr>
</tbody>
</table>

Or. en
Justification

Taken from ITRE-Opinion.

Amendment 1958
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.

Amendment

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 10 working days after having become aware of it, or when sufficient and conclusive information regarding the data breach can be obtained, shall notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 10 working days.

Or. en

Amendment 1959
Sarah Ludford

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification

Amendment

1. In the case of a personal data breach where there is a significant risk that the personal data breach will adversely affect the rights and freedoms of data subjects, the controller shall without undue delay after having become aware of it, notify the personal data breach to the supervisory authority.
in cases where it is not made within 24 hours.

Justification

A qualitative threshold of risk is essential to prevent DPAs being overwhelmed.

Amendment 1960
Wim van de Camp

Proposal for a regulation
Article 31 – paragraph 1 a (new)

Text proposed by the Commission

1a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.

Justification

This amendment clarifies which supervisory authority must be notified. This amendment is especially important in cases where persons in multiple member states are affected by the data breach, as to avoid that the same breach must be notified in multiple member states, thus reducing the administrative burden.

Amendment 1961
Michèle Striffler
Proposal for a regulation
Article 31 – paragraph 1 a (new)

Text proposed by the Commission

1a. The controller shall keep a list of minor breaches and make that list available to the supervisory authority.

Amendment

Justification

In order not to overburden the supervisory authorities, a distinction should be drawn between major and minor incidents, on the basis of qualitative and quantitative criteria.

Amendment 1962
Axel Voss

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.

Amendment

2. The processor shall alert and inform the controller immediately after the establishment of a personal data breach.

Or. en

Amendment 1963
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

2. Pursuant to point (f) of Article 26(2), the controller shall alert and inform the controller immediately after the

Amendment

2. Pursuant to point (f) of Article 26(2), the controller shall alert and inform the controller immediately after the establishment of a personal data breach as

Or. en
establishment of a personal data breach. referred to in paragraph 1.

Amendment 1964
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.

Amendment

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller without undue delay after the identification of a personal data breach that is likely to produce adverse legal effects to the protection of the personal data or the privacy of the data subject.

Amendment 1965
Timothy Kirkhope
on behalf of the ECR Group
Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.

Amendment

2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller as a matter of urgency after the establishment of a personal data breach.

Amendment 1966
Jan Mulder
Proposal for a regulation
Article 31 – paragraph 2 a (new)

Text proposed by the Commission

2a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.

Amendment

Justification

This amendment clarifies which supervisory authority must be notified. This amendment is especially important in cases where persons in multiple member states are affected by the data breach, as to avoid that the same breach must be notified in multiple member states, thus reducing the administrative burden.

Amendment 1967
Sarah Ludford

Proposal for a regulation
Article 31 – paragraph 2 a (new)

Text proposed by the Commission

2a. In making the risk assessment, the controller should be required to have regard to factors including the nature of the data; whether the breach appears to be likely to cause substantial damage or substantial distress to the data subject or is otherwise likely to significantly prejudice the rights and freedoms of the
data subject and the degree to which those risks are mitigated by the security measures which the controller has taken pursuant to Article 30.

Justification

It is helpful to spell out the factors to be taken into account.

Amendment 1968
Sarah Ludford

Proposal for a regulation
Article 31 – paragraph 3

Text proposed by the Commission

3. The notification referred to in paragraph 1 must at least:
   (a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;
   (b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;
   (c) recommend measures to mitigate the possible adverse effects of the personal data breach;
   (d) describe the consequences of the personal data breach;
   (e) describe the measures proposed or taken by the controller to address the personal data breach.

Amendment
Justification

This is over-prescriptive.

Amendment 1969
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 31 – paragraph 3 – introductory part

Text proposed by the Commission

3. The notification referred to in paragraph 1 must at least:

(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;

(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;

(c) recommend measures to mitigate the possible adverse effects of the personal data breach;

(d) describe the consequences of the personal data breach;

(e) describe the measures proposed or taken by the controller to address the personal data breach.

Amendment

3. The notification must contain the details necessary to enable the supervisory authority to assess the gravity of the incidents and their consequences and, if necessary, recommend that action be taken.

Justification

It is not necessary to specify in detail the content of notifications, given that this could in practice lead to over-refinement, given the particularities of the various sectors. It should be sufficient that the information be given to the supervisory authority is sufficiently detailed to
enable it accurately to assess the nature of the incident and its consequences. To that end, the notification should contain the following essential information: the nature of the incidents, their actual or anticipated consequences and the measures taken or to be taken.

Amendment 1970
Louis Michel

Proposal for a regulation
Article 31 – paragraph 3 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3. The notification referred to in paragraph 1 must <strong>at least:</strong></td>
<td>3. The notification referred to in paragraph 1 must <strong>if possible:</strong></td>
</tr>
</tbody>
</table>

Or. en

Amendment 1971
Louis Michel

Proposal for a regulation
Article 31 – paragraph 3 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) communicate the <strong>identity and contact details of the data protection officer</strong> or other contact point where more information can be obtained;</td>
<td>(b) communicate the contact details of the <strong>controller</strong> or other contact point where more information can be obtained;</td>
</tr>
</tbody>
</table>

Or. en

Amendment 1972
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 31 – paragraph 3 – point e

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(e) describe the measures proposed or taken by the controller to address the</td>
<td>(e) describe the measures proposed or taken by the controller to address the</td>
</tr>
</tbody>
</table>
personal data breach. personal data breach *and/or mitigate its effects.*

Or. en

**Amendment 1973**
Louis Michel

**Proposal for a regulation**
**Article 31 – paragraph 3 a (new)**

*Text proposed by the Commission*

3a. The notification referred to in paragraph 1 shall not be required if the controller or the processor has implemented appropriate technological measures, which were applied to the data concerned by the personal data breach, such as measures which render the data unintelligible to any person who is not authorised to access it.

Or. en

**Amendment 1974**
Sarah Ludford

**Proposal for a regulation**
**Article 31 – paragraph 3 a (new)**

*Text proposed by the Commission*

3a. The national supervisory authority should provide guidance under Article 38 on the particular circumstances in which notification to the supervisory authority should take place. Furthermore, the level of detail and the specific information required when a controller notifies the supervisory authority of the data breach should be contained in guidance.

Or. en
Justification

The supervisory authority is in the best position to judge the level of detail and particulars which are needed to deal with a personal data breach as effectively as possible.

Amendment 1975
Sarah Ludford

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission Amendment

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

Justification

This is over-prescriptive.

Amendment 1976
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission Amendment

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall without prejudice to the above, the controller or, where appropriate, the processor, shall
only include the information necessary for that purpose.

keep records of previous breaches and their consequences not referred to in paragraph 1 but relating to the use of personal data, and make them available to the supervisory authorities which may wish to receive copies thereof on a regular basis.

Or. es

Amendment 1977
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must be sufficient to enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Or. en

Amendment 1978
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article.

Amendment

4. The controller shall document any personal data breaches without undue delay when asked to be provided, comprising the facts surrounding the breach, its effects and the remedial action.
authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment 1979
Louis Michel

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment

4. The controller shall document data breaches referred to in paragraph 1, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment 1980
Jan Mulder

Proposal for a regulation
Article 31 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

In case the controller is part of a group of undertakings or of joint controllers, the personal data breach may be notified by the main establishment, or by another controller or undertaking designated by the joint controllers or group of undertakings.

Amendment

In case the controller is part of a group of undertakings or of joint controllers, the personal data breach may be notified by the main establishment, or by another controller or undertaking designated by the joint controllers or group of undertakings.
### Justification

This amendment aims at avoiding multiple notifications for the same data breach.

<table>
<thead>
<tr>
<th>Amendment 1981</th>
<th>Lidia Joanna Geringer de Oedenberg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal for a regulation</td>
<td>Article 31 – paragraph 4 – subparagraph 1 a (new)</td>
</tr>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
<td><strong>Amendment</strong></td>
</tr>
<tr>
<td>Cases in which it is highly probable that a breach of personal data protection will have a negative impact on the data subject’s privacy shall be deemed serious breaches.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment 1982</th>
<th>Lidia Joanna Geringer de Oedenberg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal for a regulation</td>
<td>Article 31 – paragraph 4 a (new)</td>
</tr>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
<td><strong>Amendment</strong></td>
</tr>
<tr>
<td>4a. The supervisory authority should maintain a publicly accessible register of identified and closed serious breaches.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment 1983</th>
<th>Cornelia Ernst, Marie-Christine Vergiat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal for a regulation</td>
<td>Article 31 – paragraph 4 a (new)</td>
</tr>
</tbody>
</table>
4a. The supervisory authority shall keep a public register of the types of breaches notified.

Or. en

Amendment 1984
Lidia Joanna Geringer de Oedenberg
Proposal for a regulation
Article 31 – paragraph 4 b (new)

4b. Notification of a breach of personal data protection shall, exceptionally, not be required where the controller has, without delay, implemented appropriate technological measures to safeguard the personal data concerned by the breach, and where such measures ensure that the at-risk data are rendered unintelligible to any person not authorised to access them.

Or. pl

Amendment 1985
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 31 – paragraph 5

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to
notify the personal data breach.

Justification

Delegated acts adopted by the Commission should in this case be limited to establishing a standard format for incident notification and the recording of previous breaches and their consequences.

Amendment 1986
Louis Michel

Proposal for a regulation
Article 31 – 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 requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

Amendment
deleted

Or. en

Amendment 1987
Axel Voss, Hubert Pirker, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Monika Hohlmeier, Renate Sommer

Proposal for a regulation
Article 31 – 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 requirements

Amendment
deleted
for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

Amendment 1988
Sarah Ludford

Proposal for a regulation
Article 31 – 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

Amendment 1989
Dimitrios Droutsas

Proposal for a regulation
Article 31 – 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach, after requesting an opinion of the European Data Protection Board.
data breach. in which a controller and a processor is required to notify the personal data breach.

Or. en

Amendment 1990
Louis Michel

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

deleted

Or. en

Amendment 1991
Sarah Ludford

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in

Amendment

deleted

Or. en
6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).**

**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.*
applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Amendment 1994
Dimitrios Droutsas

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted, after requesting an opinion of the European Data Protection Board, in accordance with the examination procedure referred to in Article 87(2).

Or. es

Amendment 1995
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

6. The Commission may lay down the

Amendment

6. The Commission may lay down the

Or. en
standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 1996
Sylvie Guillaume, Françoise Castex
Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject within 24 hours.

Amendment 1997
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification

Amendment

1. When the personal data breach is likely to have an adverse affect to the protection of the personal data or privacy of the data subject with respect to proportionality, the
controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment 1998
Louis Michel
Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission
1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

Amendment
1. When the personal data breach causes or is likely to cause significant adverse effect on the privacy of the data subject and minimizing of the harm requires action by data subjects, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay unless this is disproportionally difficult. When communication to data subjects would risk causing further serious harm to the protection of the personal data or privacy of the data subject, the controller may, after consulting with the supervisory authority, delay communication to data subjects until such risk no longer prevails.

Amendment 1999
Axel Voss, Hubert Pirker, Véronique Mathiev Houillon, Seán Kelly, Wim van de Camp, Monika Hohlmeier, Renate Sommer
Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission
1. When the personal data breach is likely

Amendment
1. When the personal data breach is likely
to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment

3. The communication of a personal data breach to the data subject shall not be required if the data breach has not produced significant harm to citizens and the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, unusable or anonymised to any person who is not authorised to access it.

Justification

Taken from ITRE-Committee.

Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.
Amendment 2001
Louis Michel

Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall have the purpose to render the data unintelligible to any person who is not authorised to access them, taking into account the nature of the data, the state of the art and the cost.

Or. en

Amendment 2002
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment

3. The communication of a personal data breach to the data subject can only be delayed if the information could lead to further circulation of the data concerned, and is to be performed after the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach.
Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Or. en

**Justification**

*Even after implementation of protection measures, the data subject should know that his or her personal data might be compromised.*

**Amendment 2003**

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

Proposal for a regulation

Article 32 – paragraph 3

*Text proposed by the Commission*

3. The communication of a personal data breach to the data subject shall not be required if the *controller demonstrates to the satisfaction of the supervisory authority that it* has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

*Amendment*

3. The communication of a personal data breach to the data subject shall not be required if the *data breach has not produced significant harm and the controller* has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, *unusable or anonymised* to any person who is not authorised access to it.

Or. en

**Justification**

*Taken from ITRE-Opinion.*

**Amendment 2004**

Cornelia Ernst, Marie-Christine Vergiat
Proposal for a regulation
Article 32 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If after the implementation of the suggested technological measures another data breach were to occur, the controller shall always be obliged to communicate this without undue delay to the data subject.

Or. en

Amendment 2005
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 32 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Those concerned shall not be notified in cases where this could clearly obstruct current investigations or hinder or delay measures to resolve the security breach. More detailed provision for such eventualities may be made under EU law and Member State legislation, the objective being at all times to uphold the public interest and comply with the spirit of data protection law.

Or. es

Justification

It is necessary to provide for some sort of safeguard in cases where notification of any those concerned could compromise investigation of the security breach and/or resolution of the problem.

Amendment 2006
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 32 – 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 requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Or. es

Justification

The powers that this article confers on the Commission exceed the scope of delegated acts. Moreover, further specification of the relevant criteria is not necessary under Article 32, since the correct interpretation thereof must be a matter for the supervisory authority and, in the final analysis, the courts.

Amendment 2007
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 32 – 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 requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Or. en
Amendment 2008  
Louis Michel  
Proposal for a regulation  
Article 32 – 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 requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.*

*Amendment*

deleted

Or. en

Amendment 2009  
Dimitrios Droutsas  
Proposal for a regulation  
Article 32 – 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 requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

*Amendment*

5. The Commission shall be empowered to adopt, after requesting an opinion of the European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Or. en

Amendment 2010  
Louis Michel  
Proposal for a regulation  
Article 32 – paragraph 6
6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 2011
Alexander Alvaro

Proposal for a regulation
Article 32 – paragraph 6

Text proposed by the Commission

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

Amendment

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication.

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 2012
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 32 – paragraph 6
6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication, with a particular focus on cases affecting large numbers of people. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Or. es

Amendment 2013
Dimitrios Droutsas

Proposal for a regulation
Article 32 – paragraph 6

Text proposed by the Commission

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

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

Or. en

Amendment 2014
Alexander Alvaro

Proposal for a regulation
Chapter 4 – section 3 – title

Text proposed by the Commission

DATA PROTECTION IMPACT

Amendment

LIFECYCLE DATA PROTECTION
Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a
Communication of a personal data breach to other organisations

A controller that communicates a personal data breach to a data subject pursuant to Article 32 may notify another organisation, a government institution or a part of a government institution of the personal data breach if that organisation, government institution or part may be able to reduce the risk of the harm that could result from it or mitigate that harm. Such notifications can be done without informing the data subject if the disclosure is made solely for the purposes of reducing the risk of the harm to the data subject that could result from the breach or mitigating that harm.

Justification

In many cases other organisations or government institutions are in a position to be able to
assist in mitigating harm that may result to a data subject following a personal data breach if they are made aware of the breach and the circumstances surrounding the breach.

Amendment 2016
Alexander Alvaro

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a

Data protection risk analysis

1. The controller shall carry out a risk analysis with regard to data processing operations, assessing whether at least two of the risk factors referred to under Article 5b(1) to (10) exist.

2. Where at least two of the risk factors referred to under Article 5b(1) to (10) exist, the controller or the processor acting on the controller's behalf shall carry out a data protection impact assessment pursuant to Article 33.

3. Where less than two of the risk factors referred to under Article 5b(1) to (10) exist, the risk analysis and its findings shall be documented.

4. The risk analysis shall be reviewed at the latest after one year, or immediately, if the nature, the scope or the purposes of the data processing operations change significantly.

Or. en

Justification

Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.
Amendment 2017
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment

1. Where required pursuant to Article 32a (2), the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Or. en

Justification

Impact assessments should only be necessary, if the results of a risk analysis require it.

Amendment 2018
Philippe Juvin

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment shall be sufficient to address a set of processing operations that present similar risks.
Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller’s behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller’s behalf, if they have not recruited a data protection officer for their organisation or obtained adequate and valid certification for the processing of high-risk data, shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Justification

This article introduces significant levels of bureaucracy into every stage of the data management procedure, especially bearing in mind that a great many of the players which may be required to carry out these assessments will be enterprises of a certain size that will have a data protection officer.

Amendment 2020
Axel Voss

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller’s

Amendment

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of
behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

An impact assessment is not necessary where:
(a) the processing is a legal obligation; or
(b) a consent of the data subject is given; or
(c) Article 6(1)(b) or Article 38a applies.

Amendment 2021
Wim van de Camp

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission
1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment
1. Where processing operations are likely to present high degree of risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the rights and freedoms of the data subjects, especially their right to privacy.

Justification
The amendments to Articles 28 and 35 introduce a risk-based approach to the obligation to document data processing operations and the appointment of a data protection officer. Only in case of high risk to the rights and freedoms of the data subject, those obligations are triggered. Therefore, Article 33(1) is amended to reflect those changes. Moreover, unlike the Commission proposed, the assessment should be on the risk to the rights and freedoms of the data subject and not on the personal data, as the risk assessment with respect to the personal data would be part of a security risk assessment to determine the safeguards pursuant to Article 30. Furthermore, given the changes made to paragraph 1, the risk assessment should
be performed by the controller and cannot be performed by the processor. Also, any risk is “specific”, but what is important is whether the risk is high. The factor “likely to present” is added as the risks may be mitigated following the conclusions of the PIA. The factor assumes that risks exist irrespective of any mitigation.

Amendment 2022
Adina-Ioana Valean, Jens Rohde

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission
1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller’s behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment
1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment shall be sufficient to address a set of processing operations that present similar risks.

Or. en

Justification
A new privacy impact assessment should be required only where a process or project poses substantially new or different privacy risks from what has been analyzed in the past. Where a similar process or project has undergone a privacy impact analysis in the past, only those aspects of the process or project that are new or different should be required to be analyzed anew.

Amendment 2023
Sarah Ludford

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission
1. Where processing operations present specific risks to the rights and freedoms of

Amendment
1. Where processing operations present specific risks to the rights and freedoms of
data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

A single assessment shall be sufficient to address a set of processing operations that present similar risks.

Or. en

Justification

Self-explanatory.

Amendment 2024
Louis Michel

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment

1. Where processing operations present specific high degree of risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes or when the DPA decides that a privacy impact assessment is necessary, the controller shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Or. en

Amendment 2025
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 33 – paragraph 1
1. Where processing operations present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller or the processor acting on the controller's behalf shall carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

Amendment 2026
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 33 – paragraph 1 a (new)

Text proposed by the Commission
Amendment

1a. SMEs shall only be required to perform an impact assessment after their 3rd year of incorporation if data processing is deemed as a core activity of their business. That is, where sale or revenue from processing makes up for 50% of the SMEs revenue.

Justification
Research shows that a majority of SMEs fail within their first three years of operation. Allowing this time period before the impact assessment is required will result in all businesses being given a chance to succeed before facing undue costs.

Amendment 2027
Sarah Ludford
Proposal for a regulation
Article 33 – paragraph 1 a (new)

Text proposed by the Commission

1a. Such a requirement shall not apply to:

(a) micro small and medium-sized enterprises that process data only as an activity ancillary to their main activities;

(b) all micro, small and medium-sized enterprises for the first three years after the enterprise was founded.

Or. en

Justification

There need to be exemptions for SMES to avoid a disproportionate burden.

Amendment 2028
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. The following processing operations in particular present specific risks referred to in paragraph 1:

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

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

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

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

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

Or. en

Justification

Moved to Article 5b (new).

Amendment 2029
Louis Michel

Proposal for a regulation
Article 33 – paragraph 2 – introductory part

Text proposed by the Commission

2. The following processing operations in particular present specific risks referred to in paragraph 1:

Amendment

2. The following processing operations are likely to present specific high degree of risks referred to in paragraph 1:

Or. en

Amendment 2030
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 33 – paragraph 2 – point a
(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects *concerning the individual or significantly affect the individual*;

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

Or. en

**Amendment 2031**
Axel Voss

Proposal for a regulation
Article 33 – paragraph 2 – point a

**Text proposed by the Commission**

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

**Amendment**

(a) *respecting the exceptions of Article 20(2)(c) and Article 21* a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects concerning the individual or significantly *negative* affect the individual;

Or. en

**Amendment 2032**
Louis Michel

Proposal for a regulation
Article 33 – paragraph 2 – point a
(a) a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, reliability or behaviour, which is based on automated processing and on which measures are based that produce legal effects concerning the individual or significantly affect the individual;

Amendment

(a) taking into account the exceptions of Article 20(2)(c) and the restrictions of Article 21, a systematic and extensive evaluation of personal aspects relating to a natural person or for analysing or predicting in particular the natural person's economic situation, location, health, personal preferences, or reliability, which is solely based on automated processing and on which decisions are based that produce legal effects concerning the individual or adversely affect the fundamental rights of a data subject in a significantly negative manner;

Or. en

Amendment 2033
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 33 – paragraph 2 – point b

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

Text proposed by the Commission

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

Amendment

Or. en

Amendment 2034
Cornelia Ernst, Marie-Christine Vergiat
Proposal for a regulation
Article 33 – paragraph 2 – point b

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 2035
Wim van de Camp

Proposal for a regulation
Article 33 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

deleted

Or. en

Justification

Video surveillance of public highways and other publicly accessible areas is a generally accepted and effective measure to protect the rights and freedoms of others. There is no reason to restrict the use of this measure by binding video surveillance on the outcome of a data protection impact assessment.

Amendment 2036
Jan Mulder

Proposal for a regulation
Article 33 – paragraph 2 – point c
Proposal for a regulation
Article 33 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Amendment 2037
Véronique Mathieu Houillon, Axel Voss

Proposal for a regulation
Article 33 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 2038
Louis Michel

Proposal for a regulation
Article 33 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

(c) monitoring publicly accessible areas, involving the use of specific techniques such as facial recognition, or not answering to the reasonable expectations of the general public;

Or. en
Amendment 2039  
Cornelia Ernst, Marie-Christine Vergiat  

Proposal for a regulation  
Article 33 – paragraph 2 – point c  

Text proposed by the Commission

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

Amendment

(c) monitoring publicly accessible areas, especially when using optic-electronic devices (video surveillance) or any other sensory devices;

Or. en

Amendment 2040  
Sarah Ludford  

Proposal for a regulation  
Article 33 – paragraph 2 – point c  

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

This needs to be technologically neutral.

Amendment 2041  
Dimitrios Droutsas  

Proposal for a regulation  
Article 33 – paragraph 2 – point d  

Text proposed by the Commission

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

Amendment

(d) processing of special categories of data as referred to in Article 9(1), location
biometric data; data, biometric data, or data on children;  

Amendment 2042  
Louis Michel  
Proposal for a regulation  
Article 33 – paragraph 2 – point e

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 2043  
Sarah Ludford  
Proposal for a regulation  
Article 33 – paragraph 2 a (new)

Text proposed by the Commission

2a. The supervisory authority shall establish and make public a list of the kind of processing for which a data protection impact assessment would be recommended. The supervisory authority shall communicate those lists to the European Data Protection Board.

Amendment

Or. en

Justification

A public list could be useful for data controllers to decide whether a data protection impact assessment is recommended, provided that the requirement is not mandatory.
Amendment 2044
Louis Michel

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 2045
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

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

Amendment

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

(a) a description of the envisaged
processing operations;
(b) a detailed breakdown of the contexts of the processing pursuant to Article 5a(1) to (8);

(c) a list of the purposes of the processing and the legitimate interests pursued by the controller;

(d) an assessment of the risks to the rights and freedoms of data subjects pursuant to Article 5b(1) to (10);

(e) a description of categories of data subjects and of the categories of personal data relating to them;

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

(g) a comprehensive data inventory, describing which category of data is stored where and how, and why the storage of the data is crucial to the end-user feature;

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

(i) a list of 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;

(j) where applicable, a list of the foreseen 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;

(k) the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons.
Concerned.

Justification

Parts of Article 28 moved here. Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71b and 71c.

Amendment 2046
Sarah Ludford

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The assessment shall contain at least a general description of the envisaged processing operations, assess the likelihood of the processing operation giving rise to harm to the fundamental rights and freedoms of data subjects or any other person, and the seriousness of any such harm, and explain the measures the controller intends to take to mitigate the chance of that harm or its seriousness, including the security measures and other safeguards and mechanisms the controller intends to put in place to ensure protection of personal data in accordance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.

Justification

This is a better approach.
Amendment 2047
Philippe Juvin

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 2048
Dimitrios Droutsas

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The assessment shall contain at least a description of

(a) the envisaged processing operations and their necessity and proportionality in
relation to the purpose;

(b) an assessment of the risks to the rights and freedoms of data subjects;

(c) the measures envisaged to address the risks and **minimise the volume of personal data which is processed**;

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

Or. en

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**Amendment 2049**  
Cornelia Ernst, Marie-Christine Vergiat

**Proposal for a regulation**  
**Article 33 – paragraph 3**

**Text proposed by the Commission**

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

**Amendment**

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

Or. en

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**Amendment 2050**  
Axel Voss
Proposal for a regulation
Article 33 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 2051
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

Amendment

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Or. en

Justification

In practice impossible and not enforceable.

Amendment 2052
Axel Voss

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

Amendment

4. The controller shall seek the views of data subjects or their representatives on

deleted
the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment 2053
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Or. en
Amendment 2055
Véronique Mathieu Houillon, Axel Voss

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment 2056
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment 2057
Sarah Ludford

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. The controller shall seek the views of data subjects or their representatives on

Amendment

4. The controller shall seek the views of data subjects or their representatives on
the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment 2058
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.

Amendment

4. The controller shall seek the views of data subjects or their representatives on the intended processing.

Amendment 2059
Cornelia Ernst

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment

deleted
Amendment 2060
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to

Justification

Every data processing where certain risk factors exist, shall without exception be based on a data protection impact assessment. Impact assessments are the essential core of any sustainable data protection framework, making sure that businesses are aware from the outset of all possible consequences of their data processing operations. If impact assessments are thorough, the likelihood of any data breach or privacy-intrusive operation can be fundamentally limited.

Amendment 2061
Nils Torvalds

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to

Amendment

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to
point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment 2062
Claude Moraes, Glenis Willmott

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment

5. Where the controller is a public authority or another body which has been entrusted with a mission of public interest and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment 2063
Nathalie Griesbeck

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to

Amendment

5. Where the controller is a public authority or body or an authority or body responsible for performing a public
point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

**Justification**

*Private or quasi-public bodies are sometimes asked to perform public service tasks. This amendment seeks to ensure that such situations are covered.*

**Amendment 2064**

Wim van de Camp

**Proposal for a regulation**

**Article 33 – paragraph 5**

**Text proposed by the Commission**

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

**Amendment**

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union or Member State law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

**Justification**

*There is no sufficient reason why public authorities of Member States may only abstain from conducting data protection impact assessments when it concerns processing operations regulated by Union law*
Amendment 2065
Louis Michel

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Amendment

5. Where the controller is a public authority or body and where the processing results from a legal obligation pursuant to point (c) of Article 6(1) providing for rules and procedures pertaining to the processing operations and regulated by Union or Member State law, paragraphs 1 to 4 shall not apply, unless Member States deem it necessary to carry out such assessment prior to the processing activities.

Or. en

Amendment 2066
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 5 a (new)

Text proposed by the Commission

5a. The assessment shall be documented and lay down a schedule for regular periodic data protection compliance reviews pursuant to Article 33a(1).

Amendment

5a. The assessment shall be documented and lay down a schedule for regular periodic data protection compliance reviews pursuant to Article 33a(1).

Or. en

Justification

Impact assessments can only be of help, if businesses make sure that they are complying with the promises originally laid down in them. Data controllers should therefore conduct periodic data protection compliance reviews demonstrating that the data processing mechanisms in place comply with assurances made in the data protection impact assessment. It should further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects. In addition, in case the review finds compliance inconsistencies, it should highlight these and present recommendations on how to achieve full compliance.
Amendment 2067
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The assessment shall be updated without undue delay, if the results of the data protection compliance review referred to in Article 33a show compliance inconsistencies.

Or. en

Justification

Impact assessments can only be of help, if businesses make sure that they are complying with the promises originally laid down in them. Data controllers should therefore conduct periodic data protection compliance reviews demonstrating that the data processing mechanisms in place comply with assurances made in the data protection impact assessment. It should further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects. In addition, in case the review finds compliance inconsistencies, it should highlight these and present recommendations on how to achieve full compliance.

Amendment 2068
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. The controller and the processor and, if any, the controller's representative, shall make the assessment available, on request, to the supervisory authority.

Or. en
Amendment 2069
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment

deleted

Or. en

Amendment 2070
Sari Essayah

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment

deleted
Justification

There is no need for delegation of powers to this respect.

Amendment 2071
Axel Voss

Proposal for a regulation
Article 33 – paragraph 6

<table>
<thead>
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<th>Text proposed by the Commission</th>
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<td>6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.</td>
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Amendment 2072
Nils Torvalds

Proposal for a regulation
Article 33 – paragraph 6

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<th>Amendment</th>
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<td>6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1</td>
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and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment 2073
Wim van de Camp

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment

deleted

Justification

There is no reason why the Commission would need delegated acts or implementing acts where Article 33 does not sufficiently regulate the nature of the risks involved, while this is quite feasible.

Amendment 2074
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment 2075
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Justification

Delegated acts are not justified here, since they would be concerned with basic aspects of the regulation itself.
sized enterprises.

Amendment 2076
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Or. en

Amendment 2077
Louis Michel

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the

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assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Or. en

Amendment 2078
Sarah Ludford
Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission  Amendment
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Or. en

Amendment 2079
Wim van de Camp
Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission  Amendment
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall encourage, in particular at the European level, the establishment of common criteria for
specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

determining the level of risk of the processing operations as well as the execution of privacy impact assessments, taking into account the specific features of the various sectors, the size of the controller, the nature of the data, the consequences of the processing for the data subjects and the nature of the processing operations.

Or. en

Justification

As data processing operations may differ from sector to sector and from organisation to organisation, a lot of flexibility is needed with regard to the way privacy impact assessments are performed. However, in order to ensure that the PIAs in the various sectors and organisations are comparable with respect to their quality (especially in view of the amendments to Articles 28 and 35), the Commission should encourage the development of standards rather than have the power to adopt delegated acts. Standards may be developed as part of self-regulation in sectors or organisations, and the Commission should provide guidance as to the criteria for PIAs.

Amendment 2080
Dimitrios Droutsas

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment referred to in paragraph 3, including conditions for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro, small and medium-sized enterprises.

Amendment

6. The Commission shall be empowered to adopt, after requesting an opinion of the European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the processing operations likely to present specific risks referred to in paragraphs 1 and 2 and the requirements for the assessment, referred to in paragraph 3, including conditions and procedures for scalability, verification and auditability. In doing so, the Commission shall consider specific measures for micro,
small and medium-sized enterprises.

Amendment 2081
Alexander Alvaro

Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

deleted

Or. en

Amendment 2082
Sari Essayah

Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

deleted

Or. en

Amendment 2083
Nils Torvalds
Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

Or. en

Amendment 2084
Wim van de Camp

Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

Or. en

Justification

There is no reason why the Commission would need delegated acts or implementing acts where Article 33 does not sufficiently regulate the nature of the risks involved, while this is quite feasible.

Amendment 2085
Dimitrios Droutsas
Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

Amendment 2086
Adina-Ioana Vălean, Jens Rohde

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 2087
Louis Michel

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en
referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 2088
Sarah Ludford
Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission Amendment

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Or. en

Amendment 2089
Timothy Kirkhope
on behalf of the ECR Group
Proposal for a regulation
Article 33 – paragraph 7

Text proposed by the Commission Amendment

7. The Commission may specify standards and procedures for carrying out and verifying and auditing the assessment referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

7. The European Data Protection Board in contact with the Supervisory Authority may specify standards and procedures and guidance for carrying out and verifying and auditing the assessment referred to in paragraph 3.

Or. en
Proposal for a regulation
Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33a

Data protection compliance review

1. At the latest two years after the carrying out of an impact assessment pursuant to Article 33(1), the controller or the processor acting on the controller's behalf shall carry out a compliance review. This compliance review shall demonstrate that the processing of personal data is performed in compliance with the data protection impact assessment. It shall further demonstrate the ability of the data controller to comply with the autonomous choices of data subjects in accordance with Article 23a.

2. The compliance review shall be carried out periodically at least once every two years, or immediately when there is a change in the specific risks presented by the processing operations.

3. Where the compliance review results show compliance inconsistencies, the compliance review shall include recommendations on how to achieve full compliance.

4. The compliance review and its recommendations shall be documented. The controller and the processor and, if any, the controller's representative, shall make the compliance review available, on request, to the supervisory authority.

Or. en
Justification

Controllers should focus on the protection of personal data throughout the entire data lifecycle from collection to processing to deletion by investing from the outset in a sustainable data management framework and by following it up with a comprehensive compliance mechanism. See also Recitals 71a, 71b, 71c and 74a.