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#### NOTE

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| From:    | Presidency  |
| To:      | Delegations   |
| Subject: | Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)<br>- Chapter II, preparation of trilogue |

#### Introduction

1. At the Friends of Presidency DAPIX meeting of 23<sup>rd</sup> July 2015 and with a view to the next trilogue, the Presidency invited delegations to discuss, on the basis of document 10790/15,
  - Chapter II – Principles (Articles 5 – 10);
  - Relevant definitions in Article 4, in particular definitions (2a) (EP text), (3b), (8), (10), (11), (12) and (20);
  - Relevant recitals: 23a; 23c; 25; 25a; 25aa; 26; 29; 30; 31; 31a; 32; 33; 34; 35; 37; 38, 38a; 39; 39a (EP text); 39b (EP text); 40; 41; 42; 42a; 42b; 43; 44; 45.

2. Taking into account the General Approach reached on 15<sup>th</sup> June 2015 which constitutes the basis of the negotiation mandate for the Presidency, taking into account the discussions at the FoP DAPIX meeting of 23<sup>rd</sup> July 2015, as well as considering the European Parliament's position on Chapter II, the Presidency has put together compromise suggestions in the 4<sup>th</sup> column of the document in annex with a view to the next trilogue. The Presidency invites delegations to share their views on these suggestions.
3. The Presidency wishes to underline that provisions relating to the processing of personal data for archiving purposes in the public interest or for scientific, statistical and historical purposes are to be discussed as they appear in Chapter II, notwithstanding further discussions on related issues in Chapter IX at a later stage.

Delegations are also reminded that the next trilogue will not address issues related to flexibility for the Member States' public sector which the Presidency proposes to discuss comprehensively when addressing Articles 1(2a), 2, 6(3) and 21.

4. In order to ensure an efficient discussion process, as well as to maximise its clarity, the Presidency chose to divide the different provisions into two categories.

The first category (points 5 and 6) relates either to provisions on which the colegislators have a consensual view or to provisions where the Presidency intends to maintain the Council's General Approach. With regard to this category, the Presidency takes the view that no further discussion is needed.

The second category (point 7) relates to provisions that require a compromise. In this context, the Presidency invites delegations to give their views on the compromise suggestions made by the Presidency.

## Preparation for trilogue

5. Considering the position of the European Parliament and the Council's General Approach, delegations will note that there is a consensus on:

- Recitals 43, 44
- Article 5 (1(d)) and 1(a)) while adding the tag as indicated under point 7
- Article 6 (1) chapeau, (1(b)), (1(c)), (1(e))
- Article 8 (2), (4)
- Article 9 (2) chapeau, (2(c)), (2(d)), (2(e))

*The Presidency takes the view that no additional discussion is necessary on these provisions.*

6. The Presidency suggests to maintain the Council's General Approach as regards:

- Recitals 23a, 23c, 25a, 25aa
- Article 4 (3b), (2a) (EP text), (8), (10), (11) and (20)
- Article 5 (1) chapeau (on the term "must"), (1 (ea)) (EP text) and (1(f)) while adding the tags as indicated under point 7.
- Article 6 (1(a)), (1(d)), (3a) chapeau, (3a (a)), (3a (d)) and (3a (e)), (5)
- Article 8 (1a (EP text)), (1a), (3)
- Article 9 (2(f)), (2(h)), (2(hb)), (2(i)), (2(ia)) (EP text), (2(j)), (3), (4), (5) subject to minor questions indicated under point 7.
- Article 9a
- Article 10(1)

*The Presidency takes the view that no additional discussion is necessary on these articles. However, in case delegations wish to raise any crucial point or to provide further input relating to these provisions, they may do so under point 8.*

7. With regard to the position of the European Parliament and the Council’s General Approach, the Presidency considers that compromises can be found on a certain number of provisions. Consequently, the Presidency invites delegations to give their views on the compromise suggestions concerning the following points.

#### Article 4 – Definitions

##### *Recital 26*

- In definition (12), the Presidency suggests maintaining the Council’s General Approach while accepting the precision included by the European Parliament that specifies that *“data concerning health means personal data related to the physical or mental health of an individual which reveal information about his or her health”*.

#### Article 5 – Principles relating to personal data processing

##### *Recital 39*

- The European Parliament suggests “tags” to qualify the different principles enshrined in Article 5. The Presidency considers that these additions could improve the readability of the text and included such tags in Article 5. However, Presidency proposes the tag *“data limitation”* instead of *“data minimisation”* in Article 5(1(c)) and *“storage period limitation”* instead of *“storage minimisation”* in Article 5(1(e)). The Presidency also suggests to take on board the European Parliament’s wording at the end of Article 5(1(c)) *“they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data”*.
- The European Parliament requires in general that provisions relating to processing for archiving purposes or historical, statistical and scientific purposes be further framed by a reference to *“research”*. In Article 5 (1(b)) and 5 (1(e)), the Presidency suggests to keep the term *“purposes”* and not take on board *“research”*. Moreover, the Presidency asks delegations to confirm the Council’s General Approach on the reference *“in the public interest”* that only covers processing for archiving purposes.

- The Presidency considers that the idea of Article 5(1(ea)), as suggested by the European Parliament, is already covered by the provisions in Chapter III and not appropriate to be included here.
- As Article 5(1(eb)) proposed by the European Parliament and Article 5(1(ee)) of the Council's General Approach both cover the same idea, the Presidency takes the view that both paragraph can be merged into Article 5(1(ea new)).
- The Presidency considers that Article 5(1(f)) of the European Parliament's text as well as Article 5(2) of the Council's General Approach pursue the same objective. In order to make the principle of accountability more explicit, and without modifying the rationale of Article 5(2), the Presidency proposes to accept an express reference to the accountability principle by means of a 'tag', as well as to add the terms "*and be able to demonstrate*" to give substance to this principle.

#### Article 6 – Lawfulness of processing

*Recitals: 25, 30, 31, 31a, 32, 33, 35, 37, 38, 38a, 40*

- Concerning Article 6(1(f)), and following the discussions at the FoP DAPIX meeting of 23<sup>rd</sup> July 2015, the Presidency decided not to take on board the reference to the "*reasonable expectations of the data subject based on his or her relationship with the controller*" nor the notion of "*disclosure*" as proposed by the European Parliament. For the remainder of this paragraph, the Presidency suggests to re-introduce the last sentence excluding the application of this provision for public authorities in the performance of their tasks.
- In relation to Article 6(1(f)), the Presidency considers that the idea of recital (39b) introduced by the European Parliament is covered by recital (38). Delegations are invited to share their views on this reading.

- Concerning Article 6(2), similarly to Article 5 and in order to meet the further framing asked by the European Parliament concerning processing for archiving purposes or historical, statistical and scientific purposes, the Presidency suggests to keep the term “*purposes*” and not take on board “*research*”. Moreover, the Presidency asks delegation to confirm the Council’s General Approach on the reference “*in the public interest*” that only covers processing for archiving purposes.
- Concerning Article 6(3a(b)), the Presidency takes the view that the addition of the precision relating to the “*relationship between the data subject and the controller*” could be an acceptable compromise for Council. This reflects concerns by the European Parliament expressed in Article 6(1(f)).
- Concerning Article 6(3a(c)), the Presidency suggests to align this paragraph with the Council structure on sensitive data (Articles 9 and 9a).
- As the European Parliament envisages the deletion of Article 6(4) and after the discussions during the FoP DAPIX meeting of 23<sup>rd</sup> July 2015, the Presidency suggests to keep only the first sentence of the paragraph 4.

## Article 7 – Conditions for consent

*Recitals: 25, 33*

- The Presidency takes the view that the drafting of Article 7(1) and (1a) of the Council’s General Approach could be simplified. In this context, and without prejudice to the rest of the wording of Article 7(1), the Presidency suggests to add the words “*Where processing is based on consent, the*” (as suggested by the European Parliament) at the beginning of paragraph (1) which then allows to merge paragraphs (1) and (1a).
- Concerning Article 7(2), and in a spirit of compromise, the Presidency suggests to add the last sentence proposed by the European Parliament with a slight reformulation.
- Concerning Article 7(3), the Presidency considers useful to include the sentence of the European Parliament as regards the ease to withdraw consent.

- With regard to Article 7(4), the Presidency chose to add the idea contained in the last sentence of the paragraph as suggested by the European Parliament. (“*The execution of a contract or the provision of a service shall not be made conditional on the consent to the processing of data that is not necessary for the execution of the contract or the provision of the service pursuant to Article 6(1), point (b)*”) while rephrasing it.

## Article 8 – Conditions applicable to child’s consent in relation to information society services

### *Recital 29*

- As the European Parliament broadens the scope of this article to cover the offering of goods and services, the Presidency proposes a compromise by changing the title of the article and by introducing the “*offering of information society services*” in the article itself as a specification of the offering of services (and not covering the offering of goods). The Presidency invites delegations to share their views on that change.

## Article 9 – Processing of special categories of personal data

### *Recitals: 41, 42, 42a, 42b*

- Concerning Article 9(1) and the additions included by the European Parliament, the Presidency suggests to retain only “*sexual orientation*” as proposed by the European Parliament as a specification of sex life.
- While the Presidency takes the view to maintain the Council’s General Approach regarding most of Article 9(2(a)), the Presidency suggests to add “*for one or more specified purposes*” as proposed by the European Parliament.
- In Article 9(2(b)), the Presidency considers there is merit in adding a reference to “*the conditions and safeguards referred to in Article 82*”.

- Concerning Article 9(2(aa)) as proposed by the European Parliament, the Presidency understands that this is intended to cover data processing activities in the insurance sector. Such a broad exemption, however, seems to go below the level of protection of Directive 95/46. While the Presidency considers it important to take into account the processing of sensitive data in the insurance sector, subject to certain conditions and safeguards, delegations are invited to share their views on the possibility to cover such activities in the context of this article or in other provisions.
- Concerning Article 9(2(g)), the Presidency suggests to add the word “*substantial*” before “public *interest*”. This specification exists already in the Directive 95/46.
- The content of Article 9(4) was kept in Article 81 by the European Parliament. For reasons of clarity, the Presidency takes the view that it is simpler to keep the Council’s General Approach and maintain the structure are proposed.
- Concerning Article 9(5), second sentence, the Presidency, while keeping the Council’s General Approach on that paragraph, would like to have the delegations’ views on the possible replacement of the terms “*introduce further*” by “*specify*”.

#### Article 10 – Processing not requiring identification

##### *Recital 45*

- As regards Article 10(2), the Presidency proposes to align the wording with the accountability principle contained in Article 5(2) while generally maintaining the Council’s General Approach.

8. Finally, the Presidency invites the delegations to raise any other issue related to Chapter II.

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| COM (2012)0011 | EP Position / First Reading | Council General Approach<br>(15/06/2015)   | Proposition of compromise   |
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|                | <i>Amendment 6</i>          |  |   |
|                |                             | <p><i>(23a) The application of pseudonymisation to personal data can reduce the risks for the data subjects concerned and help controllers and processors meet their data protection obligations. The explicit introduction of ‘pseudonymisation’ through the articles of this Regulation is thus not intended to preclude any other measures of data protection.</i></p> <p><i>23b) (...)</i></p> | <p>23a) The application of pseudonymisation to personal data can reduce the risks for the data subjects concerned and help controllers and processors meet their data protection obligations. The explicit introduction of ‘pseudonymisation’ through the articles of this Regulation is thus not intended to preclude any other measures of data protection.</p>   |
|                |                             | <p><i>(23c) In order to create incentives for applying pseudonymisation when processing personal data, measures of pseudonymisation whilst allowing general analysis should be possible within the same controller when the controller has taken technical and organisational measures necessary to ensure that the provisions of this Regulation are implemented, taking into account</i></p>     | <p>(23c) In order to create incentives for applying pseudonymisation when processing personal data, measures of pseudonymisation whilst allowing general analysis should be possible within the same controller when the controller has taken technical and organisational measures necessary to ensure that the provisions of this Regulation are implemented, taking into account the respective data</p> |

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|   |  | <i>the respective data processing and ensuring that additional information for attributing the personal data to a specific data subject is kept separately. The controller who processes the data shall also refer to authorised persons within the same controller. In such case however the controller shall make sure that the individual(s) performing the pseudonymisation are not referenced in the meta-data.</i>   | processing and ensuring that additional information for attributing the personal data to a specific data subject is kept separately. The controller who processes the data shall also refer to authorised persons within the same controller. In such case however the controller shall make sure that the individual(s) performing the pseudonymisation are not referenced in the meta-data.  |
|   | <i>Amendment 8</i>   |  |  |
| (25) Consent should be given explicitly by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a statement or by a clear affirmative action by the data subject, ensuring that individuals are aware that they give their consent to the processing of personal data, including by ticking a box when visiting an Internet website or by any other statement or conduct which clearly indicates in this | (25) Consent should be given explicitly by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a statement or by a clear affirmative action <b>that is the result of choice</b> by the data subject, ensuring that individuals are aware that they give their consent to the processing of personal data, <del>including by</del> . <b>Clear affirmative action could include</b> ticking a box when visiting an Internet website or by any other statement or conduct which clearly indicates in this context the | (25) Consent should be given <del>explicitly</del> <b>unambiguously</b> by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a <b>written, including electronic, oral or other</b> statement or, <b>if required by specific circumstances</b> , by <b>any other</b> clear affirmative action by the data subject, <b>signifying his or her agreement to ensuring that individuals are aware that they give their consent to the processing of personal data relating to him or her being processed.</b> ; <b>This could include</b> by ticking a box when visiting an Internet website | (25) Consent should be given unambiguously by any appropriate method enabling a freely given specific and informed indication of the data subject's wishes, either by a written, including electronic, oral statement or, if required by specific circumstances, by any other clear affirmative action by the data subject, signifying his or her agreement to personal data relating to him or her being processed. This clear affirmative action could include ticking a box when visiting an Internet website or by any other statement or conduct which clearly indicates in this context the data |

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| context the data subject's acceptance of the proposed processing of their personal data. Silence or inactivity should therefore not constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided. | data subject's acceptance of the proposed processing of his or her personal data. Silence, <i>mere use of a service</i> or inactivity should therefore not constitute consent. Consent should cover all processing activities carried out for the same purpose or purposes. If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided. | or by any other statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of their personal data. Silence or inactivity should therefore not constitute consent. <i>Where it is technically feasible and effective, the data subject's consent to processing may be given by using the appropriate settings of a browser or other application. In such cases it is sufficient that the data subject receives the information needed to give freely specific and informed consent when starting to use the service.</i> Consent should cover all processing activities carried out for the same purpose or purposes. <i>When the processing has multiple purposes, unambiguous consent should be granted for all of the processing purposes.</i> If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided. | subject's acceptance of the proposed processing of their personal data. Silence, mere use of a service or inactivity should therefore not constitute consent. Where it is technically feasible and effective, the data subject's consent to processing may be given by using the appropriate settings of a browser or other application. In such cases it is sufficient that the data subject receives the information needed to give freely specific and informed consent when starting to use the service. Consent should cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, unambiguous consent should be granted for all of the processing purposes. If the data subject's consent is to be given following an electronic request, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided. |
|  |   | <i>(25a) Genetic data should be defined as personal data relating to</i>  | (25a) Genetic data should be defined as personal data relating to the  |

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|  |   | <i>the genetic characteristics of an individual which have been inherited or acquired as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained.</i>   | genetic characteristics of an individual which have been inherited or acquired as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained.   |
|  |   | <i>(25aa) It is often not possible to fully identify the purpose of data processing for scientific purposes at the time of data collection. Therefore data subjects can give their consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research. Data subjects should have the opportunity to give their consent only to certain areas of research or parts of research projects to the extent allowed by the intended purpose and provided that this does not involve disproportionate efforts in view of the protective purpose.</i> | (25aa) It is often not possible to fully identify the purpose of data processing for scientific purposes at the time of data collection. Therefore data subjects can give their consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research. Data subjects should have the opportunity to give their consent only to certain areas of research or parts of research projects to the extent allowed by the intended purpose and provided that this does not involve disproportionate efforts in view of the protective purpose. |
| (26) Personal data relating to health should include in particular all data pertaining | <del>(26) Personal data relating to health should include in particular all data pertaining to the health</del> | <del>(26) Personal data relating to</del> <b>concerning</b> <del>health should include in particular all data pertaining to the</del>   | (26) Personal data concerning health should include data pertaining to the health status of a data subject which   |

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| <p>to the health status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, including biological samples; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health</p> | <p>status of a data subject; information about the registration of the individual for the provision of health services; information about payments or eligibility for healthcare with respect to the individual; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; any information about the individual collected in the course of the provision of health services to the individual; information derived from the testing or examination of a body part or bodily substance, including biological samples; identification of a person as provider of healthcare to the individual; or any information on e.g. a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.</p> | <p>health status of a data subject <b><i>which reveal information relating to the past, current or future physical or mental health of the data subject; including</i></b> information about the registration of the individual for the provision of health services; <del>information about payments or eligibility for healthcare with respect to the individual;</del> a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; <del>any information about the individual collected in the course of the provision of health services to the individual;</del> information derived from the testing or examination of a body part or bodily substance, including <b><i>genetic data and</i></b> biological samples; <del>identification of a person as provider of healthcare to the individual;</del> or any information on e.g. <b><i>for example</i></b> a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as e.g. <b><i>for example</i></b> from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.</p> | <p>reveal information relating to the past, current or future physical or mental health of the data subject; including information about the registration of the individual for the provision of health services; a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; information derived from the testing or examination of a body part or bodily substance, including genetic data and biological samples; or any information on for example a disease, disability, disease risk, medical history, clinical treatment, or the actual physiological or biomedical state of the data subject independent of its source, such as for example from a physician or other health professional, a hospital, a medical device, or an in vitro diagnostic test.</p> |
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| professional, a hospital, a medical device, or an in vitro diagnostic test.  |   |  |   |
| (29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing of personal data. To determine when an individual is a child, this Regulation should take over the definition laid down by the UN Convention on the Rights of the Child. | (29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing of personal data. <del>To determine when an individual is a child, this Regulation should take over the definition laid down by the UN Convention on the Rights of the Child.</del> <b><i>Where data processing is based on the data subject's consent in relation to the offering of goods or services directly to a child, consent should be given or authorised by the child's parent or legal guardian in cases where the child is below the age of 13. Age-appropriate language should be used where the intended audience is children. Other grounds of lawful processing such as grounds of public interest should remain applicable, such as for processing in the context of preventive or counselling services offered directly to a child.</i></b> | (29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing of personal data. <del>To determine when an individual is a child, this Regulation should take over the definition laid down by the UN Convention on the Rights of the Child.</del> <b><i>This concerns especially the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of child data when using services offered directly to a child.</i></b> | (29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing of personal data. This concerns especially the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of child data when using services offered directly to a child. Where data processing is based on the data subject's consent in relation to the offering of services directly to a child, particularly in relation to the offering of information society services, consent should be given or authorised by the holder of parental responsibility. Age-appropriate language should be used where the intended audience is children. |

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| <p>(30) Any processing of personal data should be lawful, fair and transparent in relation to the individuals concerned. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and limited to the minimum necessary for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means. Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted. In order to ensure that the data are not kept longer than necessary, time limits should be established</p> | <p>(30) Any processing of personal data should be lawful, fair and transparent in relation to the individuals concerned. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and limited to the minimum necessary for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means. Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted. In order to ensure that the data are not kept longer than necessary, time limits should be established by the controller for erasure or for a periodic review.</p> | <p>(30) Any processing of personal data should be lawful <del>and</del>, fair, <del>and</del> <b><i>It should be</i></b> transparent <del>in relation to</del> <b><i>for</i></b> the individuals concerned. <del>In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and limited to the minimum necessary for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means.</del> <b><i>that personal data concerning them are collected, used, consulted or otherwise processed and to which extent the data are processed or will be processed. The principle of transparency requires that any information and communication relating to the processing of those data should be easily accessible and easy to understand, and that clear and plain language is used. This concerns in particular the</i></b></p> | <p>(30) Any processing of personal data should be lawful and fair. It should be transparent for the individuals concerned that personal data concerning them are collected, used, consulted or otherwise processed and to which extent the data are processed or will be processed. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate, relevant and not excessive for the purposes for which the data are processed; this requires in particular ensuring that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not be fulfilled by other means. In order to ensure that the data are not kept longer than necessary, time limits should be established by the controller for erasure or for a periodic review. Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted. Personal data should be processed in a manner that ensures appropriate security and confidentiality of the personal data,</p> |
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| <p>by the controller for erasure or for a periodic review.</p> |  | <p><i>information of the data subjects on the identity of the controller and the purposes of the processing and further information to ensure fair and transparent processing in respect of the individuals concerned and their right to get confirmation and communication of personal data being processed concerning them.</i></p> <p><i>Individuals should be made aware on risks, rules, safeguards and rights in relation to the processing of personal data and how to exercise his or her rights in relation to the processing. In particular, the specific purposes for which the data are processed should be explicit and legitimate and determined at the time of the collection of the data. The data should be adequate and relevant for the purposes for which the data are processed; this requires in particular ensuring that the data collected are not excessive and that the period for which the data are stored is limited to a strict minimum. Personal data should only be processed if the purpose of the processing could not reasonably be fulfilled by other means. In order to ensure that the data are not kept</i></p> | <p>including for preventing unauthorised access to or the use of personal data and the equipment used for the processing.</p> |
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|   |   | <p><i>longer than necessary, time limits should be established by the controller for erasure or for a periodic review.</i></p> <p>Every reasonable step should be taken to ensure that personal data which are inaccurate are rectified or deleted. <del>In order to ensure that the data are not kept longer than necessary, time limits should be established by the controller for erasure or for a periodic review.</del></p> <p><i>Personal data should be processed in a manner that ensures appropriate security and confidentiality of the personal data, including for preventing unauthorised access to or the use of personal data and the equipment used for the processing.</i></p> |   |
|   | <b>Amendment 10</b>   |  |   |
| (31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this | (31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this Regulation or in other Union or | (31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this Regulation or in other Union or Member State law as  | (31) In order for processing to be lawful, personal data should be processed on the basis of the consent of the person concerned or some other legitimate basis, laid down by law, either in this Regulation or in other Union or Member State law as |

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| Regulation or in other Union or Member State law as referred to in this Regulation.  | Member State law as referred to in this Regulation. <i>In case of a child or a person lacking legal capacity, relevant Union or Member State law should determine the conditions under which consent is given or authorised by that person.</i> | referred to in this Regulation, <i>including the necessity for compliance with the legal obligation to which the controller is subject or the necessity for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.</i>  | referred to in this Regulation, including the necessity for compliance with the legal obligation to which the controller is subject or the necessity for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.  |
|  |   | <i>(31a) Wherever this Regulation refers to a legal basis or a legislative measure, this does not necessarily require a legislative act adopted by a parliament, without prejudice to requirements pursuant the constitutional order of the Member State concerned, however such legal basis or legislative measure should be clear and precise and its application foreseeable for those subject to it as required by the case law of the Court of Justice of the European Union and the European Court of Human Rights.</i> | (31a) Wherever this Regulation refers to a legal basis or a legislative measure, this does not necessarily require a legislative act adopted by a parliament, without prejudice to requirements pursuant the constitutional order of the Member State concerned, however such legal basis or legislative measure should be clear and precise and its application foreseeable for those subject to it as required by the case law of the Court of Justice of the European Union and the European Court on Human Rights. |
|  | <b>Amendment 11</b>   |   |  |
| (32) Where processing is based on the data subject's consent, the controller should have the burden of proving that the data subject has given | (32) Where processing is based on the data subject's consent, the controller should have the burden of proving that the data subject has given the consent to the   | (32) Where processing is based on the data subject's consent, the controller should <del>have the burden of proving</del> <b>be able to demonstrate</b> that the data subject has given the consent   | (32) Where processing is based on the data subject's consent, the controller should be able to demonstrate that the data subject has given the consent to the processing operation. In particular  |

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| the consent to the processing operation. In particular in the context of a written declaration on another matter, safeguards should ensure that the data subject is aware that and to what extent consent is given. | <p>processing operation. In particular in the context of a written declaration on another matter, safeguards should ensure that the data subject is aware that and to what extent consent is given. <i>To comply with the principle of data minimisation, the burden of proof should not be understood as requiring the positive identification of data subjects unless necessary. Similar to civil law terms (e.g. Council Directive 93/13/EEC<sup>1</sup>), data protection policies should be as clear and transparent as possible. They should not contain hidden or disadvantageous clauses. Consent cannot be given for the processing of personal data of third persons.</i></p> <hr/> <p><sup>1</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).</p> | to the processing operation. In particular in the context of a written declaration on another matter, safeguards should ensure that the data subject is aware that and to what extent consent is given. <i>A declaration of consent pre-formulated by the controller should be provided in an intelligible and easily accessible form, using clear and plain language and its content should not be unusual within the overall context. For consent to be informed, the data subject should be aware at least of the identity of the controller and the purposes of the processing for which the personal data are intended; consent should not be regarded as freely-given if the data subject has no genuine and free choice and is unable to refuse or withdraw consent without detriment.</i> | in the context of a written declaration on another matter, safeguards should ensure that the data subject is aware that and of the extent to which consent is given. A declaration of consent pre-formulated by the controller should be provided in an intelligible and easily accessible form, using clear and plain language and its content should not be unusual within the overall context, similarly as in Council Directive 93/13/EEC . For consent to be informed, the data subject should be aware at least of the identity of the controller and the purposes of the processing for which the personal data are intended. |
|   | <b>Amendment 12</b>  |   |  |
| (33) In order to ensure free consent, it should be clarified  | (33) In order to ensure free consent, it should be clarified that  | <i>(33) deleted</i>   | (33) Consent should not be regarded as freely given and therefore does not   |

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| <p>that consent does not provide a valid legal ground where the individual has no genuine and free choice and is subsequently not able to refuse or withdraw consent without detriment.</p> | <p>consent does not provide a valid legal ground where the individual has no genuine and free choice and is subsequently not able to refuse or withdraw consent without detriment. <i>This is especially the case if the controller is a public authority that can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given. The use of default options which the data subject is required to modify to object to the processing, such as pre-ticked boxes, does not express free consent. Consent for the processing of additional personal data that are not necessary for the provision of a service should not be required for using the service. When consent is withdrawn, this may allow the termination or non-execution of a service which is dependent on the data. Where the conclusion of the intended purpose is unclear, the controller should in regular intervals provide the data subject with information about the processing and request a re-affirmation of <del>their</del> his or her</i></p> |  | <p>provide a valid legal ground where the data subject has no genuine and free choice and is unable to refuse or withdraw consent without detriment.</p> <p>This is especially the case if the controller is a public authority that can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given. The use of default options which the data subject is required to modify to object to the processing, such as pre-ticked boxes, does not express free consent.</p> <p>In order to assess whether consent is freely given, account should be taken amongst others of the fact that the execution of a contract or the provision of a service is not made conditional on consent for processing of additional personal data despite that this is not necessary for these purposes and the data subject cannot reasonably obtain equivalent services from another source without consent.</p> |
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|   | <i>consent.</i>            |   |                            |
|   | <b><i>Amendment 13</i></b> |   |                            |
| <p>(34) Consent should not provide a valid legal ground for the processing of personal data, where there is a clear imbalance between the data subject and the controller. This is especially the case where the data subject is in a situation of dependence from the controller, among others, where personal data are processed by the employer of employees' personal data in the employment context. Where the controller is a public authority, there would be an imbalance only in the specific data processing operations where the public authority can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject.</p> | <i>deleted</i>             | <p>(34) <i>In order to safeguard that <del>Consent</del> consent has been freely-given, consent</i> should not provide a valid legal ground for the processing of personal data <i>in a specific case</i>, where there is a clear imbalance between the data subject and the controller <i>and This this is especially the case where the data subject is in a situation of dependence from the controller, among others, where personal data are processed by the employer of employees' personal data in the employment context. Where the controller is a public authority, there would be an imbalance only in the specific data processing operations where the public authority can impose an obligation by virtue of its relevant public powers and makes it unlikely that the consent cannot be deemed was given as freely-given, taking into account the interest of the data subject in all the circumstances of that specific situation. Consent is presumed not to be freely given, if it does not allow separate consent to be given to different data processing operations despite it is appropriate</i></p> | ➤ Merged with recital (33) |

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|   |   | <i>in the individual case, or if the performance of a contract is made dependent on the consent despite this is not necessary for such performance and the data subject cannot reasonably obtain equivalent services from another source without consent.</i>  |   |
| (35) Processing should be lawful where it is necessary in the context of a contract or the intended entering into a contract. | (35) Processing should be lawful where it is necessary in the context of a contract or the intended entering into a contract. | (35) Processing should be lawful where it is necessary in the context of a contract or the intended entering into a contract.  | <del>(35) Processing should be lawful where it is necessary in the context of a contract or the intended entering into a contract.</del>  |
|   |   | <i>(35a) This Regulation provides for general rules on data protection and that in specific cases Member States are also empowered to lay down national rules on data protection. The Regulation does therefore not exclude Member State law that defines the circumstances of specific processing situations, including determining more precisely the conditions under which processing of personal data is lawful. National law may also provide for special processing conditions for specific sectors and for the processing of special categories of data.</i> | [(35a) This Regulation provides for general rules on data protection and that in specific cases Member States are also empowered to lay down national rules on data protection. The Regulation does therefore not exclude Member State law that defines the circumstances of specific processing situations, including determining more precisely the conditions under which processing of personal data is lawful. National law may also provide for special processing conditions for specific sectors and for the processing of special categories of data.]<br>➤ to be discussed at a later stage comprehensively with Articles |

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|  |   |  | <i>1(2a), 2, 6(3) and 21.</i>   |
|  | <b><i>Amendment 14</i></b>  |  |   |
| <p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. It is also for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.</p> | <p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. <b><i>This should include also collective agreements that could be recognised under national law as having general validity.</i></b> It is also for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.</p> | <p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in <b><i>the national law of</i></b> a Member State <del>law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms.</del> It is <del>should be</del> also for Union or national law to determine <b><i>the purpose of processing.</i></b> <del>whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.</del> <b><i>Furthermore, this basis could specify the general conditions of the Regulation governing the lawfulness of data processing, determine specifications for determining the controller, the type</i></b></p> | <p>[(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in the national law of a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. It is should be also for Union or national law to determine the purpose of processing. whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association. Furthermore, this basis could specify the general conditions of the Regulation governing the lawfulness of data processing, determine specifications for determining the controller, the type of</p> |

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|   |  | <p><i>of data which are subject to the processing, the data subjects concerned, the entities to which the data may be disclosed, the purpose limitations, the storage period and other measures to ensure lawful and fair processing.</i></p> <p><i>It should also be for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public authority or another natural or legal person governed by public law, or by private law such as a professional association, where grounds of public interest so justify including for health purposes, such as public health and social protection and the management of health care services.</i></p> | <p>data which are subject to the processing, the data subjects concerned, the entities to which the data may be disclosed, the purpose limitations, the storage period and other measures to ensure lawful and fair processing.</p> <p>It should also be for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public authority or another natural or legal person governed by public law, or by private law such as a professional association, where grounds of public interest so justify including for health purposes, such as public health and social protection and the management of health care services.]</p> <p>➤ <i>to be discussed at a later stage comprehensively with Articles 1(2a), 2, 6(3) and 21.</i></p> |
| (37) The processing of personal data should equally be regarded as lawful where it is necessary to protect an interest which is essential for | (37) The processing of personal data should equally be regarded as lawful where it is necessary to protect an interest which is essential for the data subject's life. | (37) The processing of personal data should equally be regarded as lawful where it is necessary to protect an interest which is essential for the data subject's life <b><i>or that of another person. Some types of data</i></b>  | (37) The processing of personal data should equally be regarded as lawful where it is necessary to protect an interest which is essential for the data subject's life or that of another person. Some types of data  |



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| the data subject's life.   |  | <i>processing may serve both important grounds of public interest and the vital interests of the data subject as, for instance when processing is necessary for humanitarian purposes, including for monitoring epidemic and its spread or in situations of humanitarian emergencies, in particular in situations of natural disasters.</i>   | processing may serve both important grounds of public interest and the vital interests of the data subject as, for instance when processing is necessary for humanitarian purposes, including for monitoring epidemic and its spread or in situations of humanitarian emergencies, in particular in situations of natural and man-made disasters.   |
|  | <b>Amendment 15</b>  |   |   |
| (38) The legitimate interests of a controller may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding. This would need careful assessment in particular where the data subject is a child, given that children deserve specific protection. The data subject should have the right to object the processing, on grounds relating to their particular situation and free of charge. To ensure transparency, the | (38) The legitimate interests of a <del>the</del> controller, <del>or in case of disclosure, of the third party to whom the data is—are disclosed,</del> may provide a legal basis for processing, provided <del>that they</del> <b>meet the reasonable expectations of the data subject based on his or her relationship with the controller</b> and that the interests or the fundamental rights and freedoms of the data subject are not overriding. This would need careful assessment in particular where the data subject is a child, given that children deserve specific protection. <b>Provided that the interests or the fundamental</b> | (38) The legitimate interests of a controller <del>including of a controller to which the data may be disclosed or of a third party</del> may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding. This <del>would need careful assessment including whether a data subject can expect at the time and in the context of the collection of the data that processing for this purpose may take place.</del> <b>Legitimate interest could exist for example when there is a relevant and appropriate connection between the data subject and the controller in situations such as the</b> | (38) The legitimate interests of a controller, including of a controller to which the data may be disclosed, or of a third party may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, taking into consideration the reasonable expectations of the data subject. Legitimate interest could exist for example when there is a relevant and appropriate relationship between the data subject and the controller in situations such as the data subject being a client or in the service of the controller. At any rate the existence of a legitimate interest would need |

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| <p>controller should be obliged to explicitly inform the data subject on the legitimate interests pursued and on the right to object, and also be obliged to document these legitimate interests. Given that it is for the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.</p> | <p><b><i>rights and freedoms of the data subject are not overriding, processing limited to pseudonymous data should be presumed to meet the reasonable expectations of the data subject based on his or her relationship with the controller.</i></b> The data subject should have the right to object the processing, on grounds relating to their particular situation and free of charge. To ensure transparency, the controller should be obliged to explicitly inform the data subject on the legitimate interests pursued and on the right to object, and also be obliged to document these legitimate interests. <b><i>The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are processed in circumstances where data subjects do not reasonably expect further processing.</i></b> Given that it is for the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in</p> | <p><b><i>data subject being a client or in the service of the controller. At any rate the existence of a legitimate interest would need careful assessment including whether a data subject can expect at the time and in the context of the collection of the data that processing for this purpose may take place.</i></b> —<del>In particular where such assessment must take into account whether the data subject is a child, given that children deserve specific protection. The data subject should have the right to object to the processing, on grounds relating to their particular situation and free of charge. To ensure transparency, the controller should be obliged to explicitly inform the data subject on the legitimate interests pursued and on the right to object, and also be obliged to document these legitimate interests. Given that it is for Union or national law the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in the exercise performance of their tasks.</del><b><i>duties.</i></b></p> | <p>careful assessment including whether a data subject can reasonably expect at the time and in the context of the collection of the data that processing for this purpose may take place. The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are processed in circumstances where data subjects do not reasonably expect further processing. Given that it is for the legislator to provide by law the legal basis for public authorities to process data, this legal ground should not apply for the processing by public authorities in the performance of their tasks.</p> <p>The processing of personal data strictly necessary for the purposes of preventing fraud also constitutes a legitimate interest of the data controller concerned. The processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest.</p> |
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|   | the performance of their tasks.   |   |  |
|   |   | <i>(38a) Controllers that are part of a group of undertakings or institution affiliated to a central body may have a legitimate interest to transmit personal data within the group of undertakings for internal administrative purposes, including the processing of clients' or employees' personal data. The general principles for the transfer of personal data, within a group of undertakings, to an undertaking located in a third country remain unaffected.</i> | (38a) Controllers that are part of a group of undertakings or institution affiliated to a central body may have a legitimate interest to transmit personal data within the group of undertakings where this is necessary for internal administrative purposes between connected business areas, including the processing of clients' or employees' personal data, and the interests of the data subjects are safeguarded by internal policies. The general principles for the transfer of personal data, within a group of undertakings, to an undertaking located in a third country remain unaffected. |
|   | <b>Amendment 16</b>   |   |  |
| (39) The processing of data to the extent strictly necessary for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that | (39) The processing of data to the extent strictly necessary <b>and proportionate</b> for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist, <del>at a given level of confidence,</del> accidental events or <del>unlawful or</del> malicious actions that compromise the availability, | (39) The processing of data to the extent strictly necessary for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and  | (39) The processing of data to the extent strictly necessary for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or  |

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| <p>compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data, and the security of the related services offered by, or accessible via, these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services, constitutes a legitimate interest of the concerned data controller. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping ‘denial of service’ attacks and damage to computer and electronic communication systems.</p> | <p>authenticity, integrity and confidentiality of stored or transmitted data, and the security of the related services offered by, <del>or accessible via</del>, these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services constitutes a legitimate interest of the concerned data controller. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping ‘denial of service’ attacks and damage to computer and electronic communication systems. <i>This principle also applies to processing of personal data to restrict abusive access to and use of publicly available network or information systems, such as the blacklisting of electronic identifiers.</i></p> | <p>confidentiality of stored or transmitted data, and the security of the related services offered by, or accessible via, these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services, constitutes a legitimate interest of the <del>concerned</del> data controller <b>concerned</b>. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping ‘denial of service’ attacks and damage to computer and electronic communication systems. <i>The processing of personal data strictly necessary for the purposes of preventing fraud also constitutes a legitimate interest of the data controller concerned. The processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest.</i></p> | <p>transmitted data, and the security of the related services offered by, or accessible via, these networks and systems, by public authorities, Computer Emergency Response Teams – CERTs, Computer Security Incident Response Teams – CSIRTs, providers of electronic communications networks and services and by providers of security technologies and services, constitutes a legitimate interest of the data controller concerned. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping ‘denial of service’ attacks and damage to computer and electronic communication systems.</p> |
|   | <i>Amendment 17</i>  |  |   |

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|  | <p><i>(39a) Provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, the prevention or limitation of damages on the side of the data controller should be presumed as carried out for the legitimate interest of the data controller or, in case of disclosure, of the third party to whom the data is—are disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller. The same principle also applies to the enforcement of legal claims against a data subject, such as debt collection or civil damages and remedies.</i></p> |  | ➤ See recital (38) |
|  | <i>Amendment 18</i>  |  |                    |
|  | <p><i>(39b) Provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, the processing of personal data for the purpose of direct marketing for own or similar products and services or for the purpose of postal direct marketing should be presumed as</i></p>  |  |                    |

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|  | <p><i>carried out for the legitimate interest of the controller, or in case of disclosure, of the third party to whom the data are disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller if highly visible information on the right to object and on the source of the personal data is given. The processing of business contact details should be generally regarded as carried out for the legitimate interest of the controller, or in case of disclosure, of the third party to whom the data are disclosed, and as meeting the reasonable expectations of the data subject based on his or her relationship with the controller. The same should apply to the processing of personal data made manifestly public by the data subject.</i></p> |  |  |
|  | <b>Amendment 19</b>  |  |  |
| (40) The processing of personal data for other purposes should be only allowed where the processing is compatible with those | <i>deleted</i>   | (40) The processing of personal data for other purposes <i>than the purposes for which the data have been initially collected</i> should be only allowed where the processing is | (40) The processing of personal data for other purposes than the purposes for which the data have been initially collected should be only allowed where the processing is compatible |

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| <p>purposes for which the data have been initially collected, in particular where the processing is necessary for historical, statistical or scientific research purposes. Where the other purpose is not compatible with the initial one for which the data are collected, the controller should obtain the consent of the data subject for this other purpose or should base the processing on another legitimate ground for lawful processing, in particular where provided by Union law or the law of the Member State to which the controller is subject. In any case, the application of the principles set out by this Regulation and in particular the information of the data subject on those other purposes should be ensured.</p> |  | <p>compatible with those purposes for which the data have been initially collected, <del>in</del>. <b><i>In such case no separate legal basis is required other than the one which allowed the collection of the data. If particular where the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Union law or Member State law may determine and specify the tasks and purposes for which the further processing shall be regarded as lawful. The further processing for archiving purposes in the public interest, or historical, statistical, or scientific research or historical purposes or in view of future dispute resolution should be considered as compatible lawful processing operations. The legal basis provided by Union or Member State law for the collection and processing of personal data may also provide a legal basis for further processing for other purposes if these purposes are in line with the assigned task and the controller is entitled legally to collect the data for these other purposes.</i></b></p> <p><i>In order to ascertain whether a</i></p> | <p>with those purposes for which the data have been initially collected. In such case no separate legal basis is required other than the one which allowed the collection of the data. If the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Union law or Member State law may determine and specify the tasks and purposes for which the further processing shall be regarded as lawful. The further processing for archiving purposes in the public interest, or statistical, scientific or historical purposes or in view of future dispute resolution should be considered as compatible lawful processing operations. The legal basis provided by Union or Member State law for the processing of personal data may also provide a legal basis for further processing for other purposes if these purposes are in line with the assigned task and the controller is under a legal obligation to process the data for these other purposes. In order to ascertain whether a purpose of further processing is compatible with the purpose for which the data are</p> |
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|  |  | <p><i>purpose of further processing is compatible with the purpose for which the data are initially collected, the controller, after having met all the requirements for the lawfulness of the original processing, should take into account inter alia any link between those purposes and the purposes of the intended further processing, the context in which the data have been collected, including the reasonable expectations of the data subject as to their further use, the nature of the personal data, the consequences of the intended further processing for data subjects, and the existence of appropriate safeguards in both the original and intended processing operations.</i> Where the <i>intended</i> other purpose is not compatible with the initial one for which the data are collected, the controller should obtain the consent of the data subject for this other purpose or should base the processing on another legitimate ground for lawful processing, in particular where provided by Union law or the law of the Member State to which the controller is subject.</p> <p>In any case, the application of the principles set out by this Regulation</p> | <p>initially collected, the controller, after having met all the requirements for the lawfulness of the original processing, should take into account inter alia any link between those purposes and the purposes of the intended further processing, the context in which the data have been collected, including the reasonable expectations of the data subject as to their further use, the nature of the personal data, the consequences of the intended further processing for data subjects, and the existence of appropriate safeguards in both the original and intended further processing operations. Where the intended other purpose is not compatible with the initial one for which the data are collected, the controller should obtain the consent of the data subject for this other purpose or should base the processing on another legitimate ground for lawful processing, in particular where provided by Union law or the law of the Member State to which the controller is subject. In any case, the application of the principles set out by this Regulation and in particular the information of the data subject on those other purposes and on his or her</p> |
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|  |                     | and in particular the information of the data subject on those other purposes <i>and on his or her rights including the right to object</i> , should be ensured. <i>Indicating possible criminal acts or threats to public security by the controller and transmitting these data to a competent authority should be regarded as being in the legitimate interest pursued by the controller. However such transmission in the legitimate interest of the controller or further processing of personal data should be prohibited if the processing is not compatible with a legal, professional or other binding obligation of secrecy.</i> | rights including the right to object, should be ensured. Indicating possible criminal acts or threats to public security by the controller and transmitting these data to a competent authority should be regarded as being in the legitimate interest pursued by the controller. However such transmission in the legitimate interest of the controller or further processing of personal data should be prohibited if the processing is not compatible with a legal, professional or other binding obligation of secrecy. |
|  | <b>Amendment 20</b> |  |   |
| (41) Personal data which are, by their nature, particularly sensitive and vulnerable in relation to fundamental rights or privacy, deserve specific protection. Such data should not be processed, unless the data subject gives his explicit consent. However, derogations from this prohibition should be explicitly provided for in | <b>deleted</b>      | (41) Personal data which are, by their nature, particularly sensitive <del>and vulnerable</del> in relation to fundamental rights <i>and freedoms</i> <del>or privacy</del> , deserve specific protection <i>as the context of their processing may create important risks for the fundamental rights and freedoms. These data should also include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this</i>  | (41) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms, deserve specific protection. These data should also include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance by the Union of theories which attempt to determine the existence of separate human races. [Such data should not   |

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| <p>respect of specific needs, in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.</p> |  | <p><b><i>Regulation does not imply an acceptance by the European Union of theories which attempt to determine the existence of separate human races.</i></b> Such data should not be processed, unless <b><i>processing is allowed in specific cases set out in this Regulation, taking into account that Member States law may lay down specific provisions on data protection in order to adapt the application of the rules of this Regulation for compliance with a legal obligation or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. In addition to the specific requirements for such processing, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing. Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided inter alia where</i></b> the data subject gives his <b><i>or her</i></b> explicit consent <del>– However, derogations from this prohibition should be explicitly provided for</del> <b><i>or</i></b> in respect of specific needs, in</p> | <p><i>be processed, unless processing is allowed in specific cases set out in this Regulation, taking into account that Member States law may lay down specific provisions on data protection in order to adapt the application of the rules of this Regulation for compliance with a legal obligation or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. In addition to the specific requirements for such processing, the general principles and other rules of this Regulation should apply, in particular as regards the conditions for lawful processing.]</i> Derogations from the general prohibition for processing such special categories of personal data should be explicitly provided, inter alia where the data subject gives his or her explicit consent or in respect of specific needs in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.</p> <p>Special categories of personal data may also be processed where the data have manifestly been made public or</p> |
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|  |  | <p>particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.</p> <p><i>Special categories of personal data may also be processed where the data have manifestly been made public or voluntarily and at the request of the data subject transferred to the controller for a specific purpose specified by the data subject, where the processing is done in the interest of the data subject.</i></p> <p><i>Member State and Union Law may provide that the general prohibition for processing such special categories of personal data in certain cases may not be lifted by the data subject's explicit consent.</i></p> | <p>voluntarily and at the request of the data subject transferred to the controller for a specific purpose specified by the data subject, where the processing is done in the interest of the data subject.</p> <p>Union or Member State law may provide that the general prohibition for processing such special categories of personal data in certain cases may not be lifted by the data subject's explicit consent.</p> <p>➤ <i>The part in [ ] to be discussed at a later stage comprehensively with Articles 1(2a), 2, 6(3) and 21.</i></p> |
|  | <b>Amendment 21</b>  |  |  |
| (42) Derogating from the prohibition on processing | (42) Derogating from the prohibition on processing sensitive | (42) Derogating from the prohibition on processing sensitive categories of   | (42) Derogating from the prohibition on processing sensitive categories of   |

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| <p>sensitive categories of data should also be allowed if done by a law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify and in particular for health purposes, including public health and social protection and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, or for historical, statistical and scientific research purposes.</p> | <p>categories of data should also be allowed if done by a law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify and in particular for health purposes, including public health and social protection and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, for historical, statistical and scientific research purposes, <i>or for archive services</i>.</p> | <p>data should also be allowed <del>if done by a</del> <b><i>when provided for in Union or Member State</i></b> law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify, <b><i>in particular processing data in the field of employment law, social security and social protection law, including pensions and for health security, monitoring and alert purposes, the prevention or control of communicable diseases and other serious threats to health or ensuring high standards of quality and safety of health care and services and of medicinal products or medical devices or assessing public policies adopted in the field of health, also by producing quality and activity indicators.</i></b> and in particular <del>This may be done</del> for health purposes, including public health <del>and social protection</del> and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, or for <b><i>archiving in the public interest or</i></b> historical,</p> | <p>data should also be allowed when provided for in Union or Member State law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify, in particular processing data in the field of of employment law, social protection law including pensions and for health security, monitoring and alert purposes, the prevention or control of communicable diseases and other serious threats to health. This may be done for health purposes, including public health and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, or for archiving in the public interest or historical, statistical and scientific purposes. A derogation should also allow processing of such data where necessary for the establishment, exercise or defence of legal claims, regardless of whether in a judicial procedure or whether in an administrative or any out-of-court procedure.</p> |
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|  |  | <p>statistical and scientific research purposes.</p> <p><i>A derogation should also allow processing of such data where necessary for the establishment, exercise or defence of legal claims, regardless of whether in a judicial procedure or whether in an administrative or any out-of-court procedure.</i></p>  |  |
|  |  | <p><b>(42a) Special categories of personal data which deserve higher protection, may only be processed for health-related purposes where necessary to achieve those purposes for the benefit of individuals and society as a whole, in particular in the context of the management of health or social care services and systems including the processing by the management and central national health authorities of such data for the purpose of quality control, management information and the general national and local supervision of the health or social care system, and ensuring continuity of health or social care and cross-border healthcare or health security, monitoring and</b></p> | <p>(42a) Special categories of personal data which deserve higher protection, may only be processed for health-related purposes where necessary to achieve those purposes for the benefit of individuals and society as a whole, in particular in the context of the management of health or social care services and systems including the processing by the management and central national health authorities of such data for the purpose of quality control, management information and the general national and local supervision of the health or social care system, and ensuring continuity of health or social care and cross-border healthcare or health security, monitoring and alert purposes or for archiving purposes in the public interest, for historical, statistical or</p> |

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|  |  | <p><b>alert purposes or for archiving purposes in the public interest, for historical, statistical or scientific purposes as well as for studies conducted in the public interest in the area of public health. Therefore this Regulation should provide for harmonised conditions for the processing of special categories of personal data concerning health, in respect of specific needs, in particular where the processing of these data is carried out for certain health-related purposes by persons subject to a legal obligation of professional secrecy. Union or Member State law should provide for specific and suitable measures so as to protect the fundamental rights and the personal data of individuals.</b></p> | <p>scientific purposes in the public interest or statistical purposes as well as for studies conducted in the public interest in the area of public health. Therefore this Regulation should provide for harmonised conditions for the processing of special categories of personal data concerning health, in respect of specific needs, in particular where the processing of these data is carried out for certain health-related purposes by persons subject to a legal obligation of professional secrecy. Union or Member State law should provide for specific and suitable measures so as to protect the fundamental rights and the personal data of individuals.</p> |
|  |  | <p><i>(42b) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. This processing is subject to suitable and specific measures so as to protect the rights and freedoms of individuals. In that context, ‘public</i></p>   | <p>(42b) The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. This processing is subject to suitable and specific measures so as to protect the rights and freedoms of individuals. In that context, ‘public</p>  |

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|  |   | <i>health' should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work, meaning all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality. Such processing of personal data concerning health for reasons of public interest should not result in personal data being processed for other purposes by third parties such as employers, insurance and banking companies.</i> | health' should be interpreted as defined in Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work, meaning all elements related to health, namely health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care, the provision of, and universal access to, health care as well as health care expenditure and financing, and the causes of mortality. Such processing of personal data concerning health for reasons of public interest should not result in personal data being processed for other purposes by third parties such as employers, insurance and banking companies. |
| (43) Moreover, the processing of personal data by official authorities for achieving aims, laid down in constitutional law or international public law, of officially recognised religious | (43) Moreover, the processing of personal data by official authorities for achieving aims, laid down in constitutional law or international public law, of officially recognised religious associations is carried out on | (43) Moreover, the processing of personal data by official authorities for achieving aims, laid down in constitutional law or international public law, of officially recognised religious associations is carried out on grounds of public interest.  | (43) Moreover, the processing of personal data by official authorities for achieving aims, laid down in constitutional law or international public law, of officially recognised religious associations is carried out on grounds of public interest.   |

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| associations is carried out on grounds of public interest.  | grounds of public interest.  |   |  |
| (44) Where in the course of electoral activities, the operation of the democratic system requires in a Member State that political parties compile data on people's political opinions, the processing of such data may be permitted for reasons of public interest, provided that appropriate safeguards are established.  | (44) Where in the course of electoral activities, the operation of the democratic system requires in a Member State that political parties compile data on people's political opinions, the processing of such data may be permitted for reasons of public interest, provided that appropriate safeguards are established.   | (44) Where in the course of electoral activities, the operation of the democratic system requires in a Member State that political parties compile data on people's political opinions, the processing of such data may be permitted for reasons of public interest, provided that appropriate safeguards are established.  | (44) Where in the course of electoral activities, the operation of the democratic system requires in a Member State that political parties compile data on people's political opinions, the processing of such data may be permitted for reasons of public interest, provided that appropriate safeguards are established.   |
|   | <b>Amendment 22</b>  |   |  |
| (45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. In case of a request for access, the controller should be entitled to ask the data subject for further information to enable the data controller to locate | (45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. In case of a request for access, the controller should be entitled to ask the data subject for further information to enable the data controller to locate the personal data which that person seeks. <b><i>If it</i></b> | (45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. <del>In case of a request for access, the controller should be entitled to ask the data subject for further information to enable the data controller to locate the personal data which that person seeks</del> <b><i>However, the controller should not refuse to</i></b> | (45) If the data processed by a controller do not permit the controller to identify a natural person, the data controller should not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. However, the controller should not refuse to take additional information provided by the data subject in order to support the exercise of his or her rights. Identification could include the digital identification of a data subject, for example through |



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| the personal data which that person seeks. | <i>is possible for the data subject to provide such data, controllers should not be able to invoke a lack of information to refuse an access request.</i>   | <i>take additional information provided by the data subject in order to support the exercise of his or her rights.</i>   | authentication mechanism such as the same credentials, used by the data subject to log-into the on-line service offered by the data controller.<br><br>➤ <i>last sentence moved here from recital (52) Council's General Approach</i> |
| <b>Article 4</b>                           | <b>Article 4</b>  | <b>Article 4</b>   | <b>Article 4</b>  |
| <b>Definitions</b>                         | <b>Definitions</b>  | <b>Definitions</b>   | <b>Definitions</b>  |
|  | <i>Amendment 98</i>   |  |   |
|  | <i>(2a) 'pseudonymous data' means personal data that cannot be attributed to a specific data subject without the use of additional information, as long as such additional information is kept separately and subject to technical and organisational measures to ensure non-attribution;</i> |  |   |
|  |   | <i>(3b) 'pseudonymisation' means the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional information, as long as such</i> | (3b) 'pseudonymisation' means the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional  |

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|   |   | <b><i>additional information is kept separately and subject to technical and organisational measures to ensure non-attribution to an identified or identifiable person.</i></b>  | information, as long as such additional information is kept separately and subject to technical and organisational measures to ensure non-attribution to an identified or identifiable person.  |
| (8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed; | <del>(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;</del>  | (8) 'the data subject's consent' means any freely given, specific, <b><i>and</i></b> informed <del>and explicit</del> indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;  | 8) 'the data subject's consent' means any freely given, specific and informed indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;   |
| (10) 'genetic data' means all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;  | <del>(10) 'genetic data' means all <b><i>personal</i></b> data, of whatever type, <b><i>concerning relating to the genetic</i></b> characteristics of an individual which <del>are</del> <b><i>have been</i></b> inherited or acquired during early prenatal development <b><i>as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, desoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained;</i></b></del> | (10) 'genetic data' means all <b><i>personal</i></b> data, <del>of whatever type, concerning</del> <b><i>relating to the genetic</i></b> characteristics of an individual <del>which are inherited or acquired during early prenatal development</del> <b><i>that have been inherited or acquired, which give unique information about the physiology or the health of that individual, resulting in particular from an analysis of a biological sample from the individual in question;</i></b> | (10) 'genetic data' means all personal data relating to the genetic characteristics of an individual that have been inherited or acquired, which give unique information about the physiology or the health of that individual, resulting in particular from an analysis of a biological sample from the individual in question |

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| (11) 'biometric data' means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data; | (11) 'biometric data' means any <b>personal</b> data relating to the physical, physiological or behavioural characteristics of an individual which allow his or her unique identification, such as facial images, or dactyloscopic data; | (11) 'biometric data' means any <b>personal</b> data <b>resulting from specific technical processing</b> relating to the physical, physiological or behavioural characteristics of an individual which allows <b>or confirms the</b> <del>their</del> unique identification <b>of that individual</b> , such as facial images, or dactyloscopic data; | (11) 'biometric data' means any personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of an individual which allows or confirms the unique identification of that individual, such as facial images, or dactyloscopic data;                         |
| (12) 'data concerning health' means any information which relates to the physical or mental health of an individual, or to the provision of health services to the individual;                                      | (12) 'data concerning health' means any <del>information</del> <b>personal data</b> which relate to the physical or mental health of an individual, or to the provision of health services to the individual;                            | (12) 'data concerning health' means <b>data related</b> <del>any information which</del> relates to the physical or mental health of an individual, <b>which reaveal information about his or her health status</b> <del>or to the provision of health services to the individual;</del>  | (12) 'data concerning health' means personal data related to the physical or mental health of an individual, which reveal information about his or her health;  |
|   |  | <b>(20) 'Information Society service' means any service as defined by Article 1 (2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services.</b>                | (20) 'Information Society service' means any service as defined by Article 1 (2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services. |

| CHAPTER II<br>PRINCIPLES   | CHAPTER II<br>PRINCIPLES   | CHAPTER II<br>PRINCIPLES  |  |
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| <i>Article 5</i>   | <i>Article 5</i>   | <i>Article 5</i>  | <i>Article 5</i>   |
| <i>Principles relating to personal data processing</i>   | <i>Principles relating to personal data processing</i>   | <i>Principles relating to personal data processing</i>  | <i>Principles relating to personal data processing</i>   |
|  | <i>Amendment 99</i>  |   |  |
| Personal data must be:   | 1. Personal data <del>must</del> <i>shall</i> be:  | Personal data must be:  | 1. Personal data must be:  |
| (a) processed lawfully, fairly and in a transparent manner in relation to the data subject;  | (a) processed lawfully, fairly and in a transparent manner in relation to the data subject ( <i>lawfulness, fairness and transparency</i> );                     | (a) processed lawfully, fairly and in a transparent manner in relation to the data subject;   | (a) processed lawfully, fairly and in a transparent manner in relation to the data subject (“lawfulness, fairness and transparency”);  |
| (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; | (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes ( <i>purpose limitation</i> ); | (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; <i>further processing of personal data for archiving purposes in the public interest or scientific, statistical or historical purposes shall in accordance with Article 83 not be considered incompatible with the initial purposes;</i> | (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; further processing of personal data for archiving purposes in the public interest or, scientific, statistical or historical purposes shall in accordance with Article 83 not be considered incompatible with the initial purposes (“purpose limitation”); |
| (c) adequate, relevant, and limited to the minimum   | (c) adequate, relevant, and limited to the minimum   | (c) adequate, relevant, and <i>not excessive</i> <del>limited to the minimum</del>  | (c) adequate, relevant, not excessive in relation to the purposes for which they are   |

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| necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;   | necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data ( <b><i>data minimisation</i></b> );   | <del>necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;</del>   | processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data (“data limitation”);  |
| (d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;  | (d) accurate and, <b><i>where necessary</i></b> , kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ( <b><i>accuracy</i></b> ).  | (d) accurate and, <b><i>where necessary</i></b> , kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;  | (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (“accuracy”);   |
| (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the | (e) kept in a form which permits <b><i>direct or indirect</i></b> identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research <b><i>or for archive</i></b> purposes in accordance with the rules and conditions of | (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed <del>solely</del> <b><i>for archiving purposes in the public interest, or scientific, historical, statistical, or scientific research or historical</i></b> purposes in accordance with <del>the rules and conditions of</del> Article 83 <del>and if a periodic review is</del> | (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for archiving purposes in the public interest, or scientific, statistical or historical purposes - in accordance with Articles 83 <del>[and 83a]</del> subject to implementation of the appropriate technical and organisational measures required by the Regulation in order to |

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| rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage; | <del>Article</del> Articles 83 <i>and 83a</i> and if a periodic review is carried out to assess the necessity to continue the storage, <i>and if appropriate technical and organizational measures are put in place to limit access to the data only for these purposes (storage minimisation)</i> ; | <del>carried out to assess the necessity to continue the storage</del> <i>subject to implementation of the appropriate technical and organisational measures required by the Regulation in order to safeguard the rights and freedoms of data subject;</i> | safeguard the rights and freedoms of data subject (“storage period limitation”);  |
|   | <i>(ea) processed in a way that effectively allows the data subject to exercise his or her rights (effectiveness);</i>   |  |   |
|   | <i>(eb) processed in a way that protects against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (integrity);</i>   |  | (ea new) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (“integrity and confidentiality”). |
|   |  | <i>(ee) processed in a manner that ensures appropriate security of the personal data.</i>  | ➤ See (ea new)  |
| (f) processed under the responsibility and liability  | (f) processed under the responsibility and liability of  | <i>deleted</i>   | <i>deleted</i>  |

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| of the controller, who shall ensure and demonstrate for each processing operation the compliance with the provisions of this Regulation. | the controller, who shall ensure and <b><i>be able to</i></b> demonstrate <del>for each processing operation</del> the compliance with the provisions of this Regulation ( <b><i>accountability</i></b> ). |   |   |
|  |  | <b><i>2. The controller shall be responsible for compliance with paragraph 1.</i></b>   | 2. The controller shall be responsible for, and be able to demonstrate compliance with paragraph 1 (“accountability”).  |
| <b><i>Article 6</i></b>  | <b><i>Article 6</i></b>  | <b><i>Article 6</i></b>   | <del><b><i>Article 6</i></b></del>  |
| <b><i>Lawfulness of processing</i></b>   | <b><i>Lawfulness of processing</i></b>   | <b><i>Lawfulness of processing</i></b>  | <del><b><i>Lawfulness of processing</i></b></del>   |
|  | <b><i>Amendment 100</i></b>  |   |   |
| 1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:                     | 1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:   | 1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:                                  | 1. Processing of personal data shall be lawful only if and to the extent that at least one of the following applies:  |
| (a) the data subject has given consent to the processing of their personal data for one or more specific purposes;                       | (a) the data subject has given consent to the processing of their personal data for one or more specific purposes;   | (a) the data subject has given <b><i>unambiguous</i></b> consent to the processing of their personal data for one or more specific purposes;          | (a) the data subject has given unambiguous consent to the processing of their personal data for one or more specific purposes;                                |
| (b) processing is necessary for the performance of a contract to which the data subject is party or in order                             | (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the  | (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data | (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject |

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| to take steps at the request of the data subject prior to entering into a contract;  | request of the data subject prior to entering into a contract;   | subject prior to entering into a contract;  | prior to entering into a contract;  |
| (c) processing is necessary for compliance with a legal obligation to which the controller is subject;   | (c) processing is necessary for compliance with a legal obligation to which the controller is subject;   | (c) processing is necessary for compliance with a legal obligation to which the controller is subject;  | (c) processing is necessary for compliance with a legal obligation to which the controller is subject;  |
| (d) processing is necessary in order to protect the vital interests of the data subject;   | (d) processing is necessary in order to protect the vital interests of the data subject;   | (d) processing is necessary in order to protect the vital interests of the data subject <b>or of another person</b> ;   | (d) processing is necessary in order to protect the vital interests of the data subject or of another person;   |
| (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;  | (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;  | (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;   | (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;   |
| (f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data | (f) processing is necessary for the purposes of the legitimate interests pursued by <b>the controller or, in case of disclosure, by the third party to whom the data is disclosed, and which meet the reasonable expectations of the data subject based on his or her relationship with the controller</b> , except where such | (f) processing is necessary for the purposes of the legitimate interests pursued by <del>a</del> <b>the controller or by a third party</b> , except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. <del>This shall not apply to processing carried out by public</del> | (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks. |



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| subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.  | interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, <del>in particular where the data subject is a child.</del> This shall not apply to processing carried out by public authorities in the performance of their tasks. | <del>authorities in the performance exercise of their tasks.</del>   |   |
| 2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83. | <del>2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.</del>   | 2. Processing of personal data which is necessary for <b>archiving</b> <del>the purposes</del> <b>in the public interest, or for</b> historical, statistical or scientific <del>research</del> <b>purposes</b> shall be lawful subject <b>also</b> to the conditions and safeguards referred to in Article 83. | 2. Processing of personal data which is necessary for archiving purposes in the public interest, or for historical, statistical or scientific purposes shall be lawful subject also to the conditions and safeguards referred to in Articles 83.      |
| 3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:   | <del>3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:</del>   | 3. The basis <del>of</del> <b>for</b> the processing referred to in points (c) and (e) of paragraph 1 must be <del>provided for</del> <b>established in accordance with:</b>   | <i>[3. The basis for the processing referred to in points (c) and (e) of paragraph 1 must be provided for established in accordance with:]</i><br><br>➤ Article 6(3) to be discussed at a later stage comprehensively with Articles 1(2a), 2, and 21. |
| (a) Union law, or  | (a) Union law, or   | (a) Union law, or  | (a) Union law, or   |
| (b) the law of the Member State to which the   | <del>(b) the law of the Member State to which the controller is</del>   | (b) <b>national</b> <del>the</del> law of the Member State to which the controller is  | <i>[(b) national the law of the Member State</i>  |

| controller is subject. | subject. | subject.   | <i>to which the controller is subject.]</i>  |
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|                        |          | <p><i>The purpose of the processing shall be determined in this legal basis or as regards the processing referred to in point (e) of paragraph 1, be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This legal basis may contain specific provisions to adapt the application of rules of this Regulation, inter alia the general conditions governing the lawfulness of data processing by the controller, the type of data which are subject to the processing, the data subjects concerned; the entities to, and the purposes for which the data may be disclosed; the purpose limitation; storage periods and processing operations and processing procedures, including measures to ensure lawful and fair processing, including for other specific processing situations as provided for in Chapter IX.</i></p> |  |
|                        |          | <p><i>3a. In order to ascertain whether a purpose of further processing is compatible with the one for which the data are initially collected, the</i></p>   | <p>3a. In order to ascertain whether a purpose of further processing is compatible with the one for which the personal data are initially collected, the controller shall take</p> |

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|  |  | <i>controller shall take into account, unless the data subject has given consent, inter alia:</i>   | into account, unless the data subject has given consent, inter alia:   |
|  |  | <i>(a) any link between the purposes for which the data have been collected and the purposes of the intended further processing;</i>        | (a) any link between the purposes for which the personal data have been collected and the purposes of the intended further processing;   |
|  |  | <i>(b) the context in which the data have been collected;</i>   | (b) the context in which the personal data have been collected, in particular regarding the relationship between the data subject and the controller   |
|  |  | <i>(c) the nature of the personal data, in particular whether special categories of personal data are processed, pursuant to Article 9;</i> | (c) the nature of the processing, in particular whether special categories of personal data are processed, pursuant to Article 9 or whether data related to criminal convictions and offences are processed, pursuant to Article 9a; |
|  |  | <i>(d) the possible consequences of the intended further processing for data subjects;</i>  | (d) the possible consequences of the intended further processing for data subjects; and  |
|  |  | <i>(e) the existence of appropriate safeguards.</i>   | (e) the existence of appropriate safeguards.   |
| The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect | The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the | <i>deleted</i>  | <i>deleted</i>   |

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| the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.   | protection of personal data and be proportionate to the legitimate aim pursued. <i>Within the limits of this Regulation, the law of the Member State may provide details of the lawfulness of processing, particularly as regards data controllers, the purpose of processing and purpose limitation, the nature of the data and the data subjects, processing measures and procedures, recipients, and the duration of storage.</i> |  |  |
| 4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract. | <i>deleted</i>   | 4. Where the purpose of further processing is <del>not</del> <i>incompatible</i> with the one for which the personal data have been collected <i>by the same controller</i> , the <i>further</i> processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. <del>This shall in particular apply to any change of terms and general conditions of a contract.</del> <i>Further processing by the same controller for incompatible purposes on grounds of legitimate interests of that controller or a third party shall be lawful if these interests override</i> | 4. Where the purpose of further processing is incompatible with the one for which the personal data have been collected by the same controller, the further processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. |

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|  |  | <i>the interests of the data subject.</i>   |   |
| 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child. | <i>deleted</i>   | <i>deleted</i>  | <i>deleted</i>  |
| <i>Article 7</i>   | <i>Article 7</i>   | <i>Article 7</i>  | <i>Article 7</i>  |
| <i>Conditions for consent</i>  | <i>Conditions for consent</i>  | <i>Conditions for consent</i>   | <i>Conditions for consent</i>   |
|  | <i>Amendment 101</i>   |   |   |
| 1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data for specified purposes.   | 1. <i>Where processing is based on consent</i> , <del>the</del> controller shall bear the burden of proof for the data subject's consent to the processing of <del>their</del> <i>his or her</i> personal data for specified purposes. | 1. <i>Where Article 6(1)(a) applies</i> the controller shall <del>bear the burden of proof for the data subject's</del> <i>be able to demonstrate that unambiguous consent to the processing of their personal data for specified purposes was given by the data subject.</i> | 1. Where processing is based on consent, the controller shall be able to demonstrate that consent was given by the data subject to the processing of their personal data. |
|  |  | <i>1a. Where Article 9(2)(a) applies, the controller shall be able to demonstrate that explicit consent</i>   | ➤ <i>Merged with paragraph 1</i>  |

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|   |  | <i>was given by the data subject.</i>   |  |
| 2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter. | 2. If the data subject's consent is given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented <b>clearly</b> distinguishable in its appearance from this other matter. <b><i>Provisions on the data subject's consent which are partly in violation of this Regulation are fully void.</i></b>   | 2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matters, the requirement to give request for consent must be presented <b>in a manner which is clearly</b> distinguishable in its appearance from these other matters, <b><i>in an intelligible and easily accessible form, using clear and plain language.</i></b> | 2. If the data subject's consent is to be given in the context of a written declaration which also concerns other matters, the request for consent must be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any provision that the data subject has given consent to which is in violation of this Regulation is deemed void. |
| 3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.                                    | 3. <b><i>Notwithstanding other legal grounds for processing, the</i></b> data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b><i>It shall be as easy to withdraw consent as to give it. The data subject shall be informed by the controller if withdrawal of consent may result in the termination of the services provided or of the relationship with the controller.</i></b> | 3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b><i>Prior to giving consent, the data subject shall be informed thereof.</i></b>   | 3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw consent as to give it.   |

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| 4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller. | 4. Consent shall <del>not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller</del> <i>be purpose-limited and shall lose its validity when the purpose ceases to exist or as soon as the processing of personal data is no longer necessary for carrying out the purpose for which they were originally collected. The execution of a contract or the provision of a service shall not be made conditional on the consent to the processing of data that is not necessary for the execution of the contract or the provision of the service pursuant to Article 6(1), point (b).</i> | <del>deleted</del>   | 4. When assessing whether consent is freely given, account should be taken of the fact whether, among others, the execution of a contract or the provision of a service is made conditional on the consent to the processing of data that is not necessary for these purposes, in case of processing under Article 6(1)(b). |
| <i>Article 8</i>   | <i>Article 8</i>  | <i>Article 8</i>   | <del><i>Article 8</i></del>   |
| <i>Processing of personal data of a child</i>  | <del><i>Processing of personal data of a child</i></del>  | <u><i>Conditions applicable to child's consent in relation to information society services</i></u> | <i>Processing of personal data of a child</i>   |
|  | <i>Amendment 102</i>  |  |   |
| 1. For the purposes of this  | 1. For the purposes of this   | <del>1. For the purposes of this</del>   | 1. Where Article 6 (1)(a) applies, in   |

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| Regulation, in relation to the offering of information society services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or custodian. The controller shall make reasonable efforts to obtain verifiable consent, taking into consideration available technology. | Regulation, in relation to the offering of information society <del>goods or</del> services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or <del>eustodian</del> <b>legal guardian</b> . The controller shall make reasonable efforts to <del>obtain</del> <b>verify such</b> consent, taking into consideration available technology <b>without causing otherwise unnecessary processing of personal data</b> . | <del>Regulation</del> <b>Where Article 6 (1)(a) applies</b> , in relation to the offering of information society services directly to a child, the processing of personal data of a child <del>below the age of 13 years</del> shall only be lawful if and to the extent that <b>such</b> consent is given or authorised by the <b>holder of parental responsibility over the child's parent or eustodian</b> <b>is given by the child in circumstances where it is treated as valid by Union or Member State law</b> . | relation to the offering of services, and in particular in relation to the offering of information society services, directly to a child, the processing of personal data of a child shall only be lawful if and to the extent that such consent is given or authorised by the holder of parental responsibility over the child or is given by the child in circumstances where it is treated as valid by Union or Member State law. |
|  | <b>1a. Information provided to children, parents and legal guardians in order to express consent, including about the controller's collection and use of personal data, should be given in a clear language appropriate to the intended audience.</b>   |   |  |
|  |   | <b>(1a) The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking</b>  | 1a. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available  |



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

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| obtain verifiable consent referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).  |  |  |   |
| <i>Article 9</i>   | <i>Article 9</i>   | <i>Article 9</i>   | <i>Article 9</i>  |
|  | <i>Amendment 103</i>   |  |   |
| <i>Processing of special categories of personal data</i>   | <del>Processing of special</del> <i>Special categories of personal data</i>  | <i>Processing of special categories of personal data</i>   | <i>Processing of special categories of personal data</i>  |
| 1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited. | 1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or <i>philosophical</i> beliefs, <i>sexual orientation or gender identity</i> , trade-union membership <i>and activities</i> , and the processing of genetic <i>or biometric</i> data or data concerning health or sex life <del>or</del> , <i>administrative sanctions, judgments, criminal or suspected offences</i> , convictions or related security measures shall be prohibited. | 1. The processing of personal data, revealing <del>race</del> <i>racial</i> or ethnic origin, political opinions, religion <del>or</del> <i>philosophical</i> beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life <del>or criminal convictions or related security measures</del> shall be prohibited. | 1. The processing of personal data, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life including sexual orientation shall be prohibited. |
| 2. Paragraph 1 shall not   | 2. Paragraph 1 shall not apply <del>where</del> <i>if one of the</i>   | 2. Paragraph 1 shall not apply <i>if one</i>   | 2. Paragraph 1 shall not apply if one of the following applies:   |

| apply where:   | <i>following applies:</i>  | <i>of the following applies:</i>   |  |
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| (a) the data subject has given consent to the processing of those personal data, subject to the conditions laid down in Articles 7 and 8, except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject; or | (a) the data subject has given consent to the processing of those personal data <b><i>for one or more specified purposes</i></b> , subject to the conditions laid down in Articles 7 and 8, except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject; or | (a) the data subject has given <b><i>explicit</i></b> consent to the processing of those personal data, <del>subject to the conditions laid down in Articles 7 and 8,</del> except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject; or   | (a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject; or  |
|  | <b><i>(aa) processing is necessary for the performance or execution of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;</i></b>   |  |  |
| (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law  | (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law <b><i>or collective agreements</i></b> providing for adequate  | (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller <b><i>or of the data subject</i></b> in the field of employment <b><i>and social security and social protection</i></b> law in so far as it is authorised by Union law or Member State law <b><i>or a collective agreement</i></b> | (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union law or Member State law or a collective agreement pursuant to Member State law providing for adequate |

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| providing for adequate safeguards; or   | safeguards <i>for the fundamental rights and the interests of the data subject such as right to non-discrimination, subject to the conditions and safeguards referred to in Article 82</i> ; or   | <i>pursuant to Member State law</i> providing for adequate safeguards; or  | safeguards for the fundamental rights and the interests of the data subject and subject to the conditions and safeguards referred to in Articles 82; or  |
| (c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or   | (c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or   | (c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or  | (c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or  |
| (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside | (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data | (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or | (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects; or |

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| that body without the consent of the data subjects; or  | subjects; or   |  |  |
| (e) the processing relates to personal data which are manifestly made public by the data subject; or  | (e) the processing relates to personal data which are manifestly made public by the data subject; or   | (e) the processing relates to personal data which are manifestly made public by the data subject; or   | (e) the processing relates to personal data which are manifestly made public by the data subject; or   |
| (f) processing is necessary for the establishment, exercise or defence of legal claims; or  | (f) processing is necessary for the establishment, exercise or defence of legal claims; or   | (f) processing is necessary for the establishment, exercise or defence of legal claims <i>or whenever courts are acting in their judicial capacity</i> ; or  | (f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity; or  |
| (g) processing is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's legitimate interests; or | (g) processing is necessary for the performance of a task carried out in the <i>for reasons of high</i> public interest, on the basis of Union law, or Member State law which shall <i>be proportionate to the aim pursued, respect the essence of the right to data protection and</i> provide for suitable measures to safeguard the <i>fundamental rights and the</i> data subject's legitimate interests <i>of the data subject</i> ; or | (g) processing is necessary for the <del>performance of a task carried out in the</del> <i>reasons of</i> public interest, on the basis of Union law, or Member State law which shall provide for suitable <i>and specific</i> measures to safeguard the data subject's legitimate interests; or | (g) processing is necessary for reasons of substantial public interest, on the basis of Union law, or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject; or |
| (h) processing of data concerning health is necessary for health purposes and subject to the  | (h) processing of data concerning health is necessary for health purposes and subject to the conditions and  | (h) processing of data concerning health <del>is necessary for health purposes</del> <i>the purposes of preventive or occupational medicine, for the</i>   | (h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee,   |

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| conditions and safeguards referred to in Article 81; or   | safeguards referred to in Article 81; or  | <i>assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union law or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in Article 81 paragraph 4; or</i>   | medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union law or Member State law or pursuant to a contract with a health professional and subject to the conditions and safeguards referred to in paragraph 4; or  |
|   |   | <del>(ha)</del>   |  |
|   |   | <i>(hb) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union law or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject; or</i> | (hb) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union law or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject; or |
| (i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions | (i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and | (i) processing is necessary for <i>archiving purposes in the public interest</i> or historical, statistical or scientific research purposes <i>and</i>  | (i) processing is necessary for archiving purposes in the public interest or historical, statistical or scientific purposes subject to the conditions and safeguards   |

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| and safeguards referred to in Article 83; or   | <div> <div></div> <div>safeguards referred to in Article 83; or</div> </div>  | subject to the conditions and safeguards <b><i>laid down in Union or Member State law, including those</i></b> referred to in Article 83. | laid down in Union or Member State law, including those referred to in Articles 83; or |
|  | <b><i>(ia) processing is necessary for archive services subject to the conditions and safeguards referred to in Article 83a; or</i></b>   |   |  |
| (j) processing of data relating to criminal convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards. A complete register of criminal convictions shall be kept only under the control of official | (j) processing of data relating to <b><i>administrative sanctions, judgments, criminal offences,</i></b> convictions or related security measures is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards.— <b><i>A complete for the fundamental rights and the interests of the data subject. Any</i></b> register of criminal convictions shall be kept only under the control of | <b><i>deleted</i></b>   | <b><i>deleted</i></b>  |

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| authority.   | official authority.   |   |   |
| 3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria, conditions and appropriate safeguards for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2. | 3. The <del>Commission</del> <b>European Data Protection Board</b> shall be <del>empowered to adopt delegated acts in accordance with Article 86 for the purpose</del> <b>entrusted with the task</b> of further specifying the criteria, conditions and appropriate safeguards <b>issuing guidelines, recommendations and best practices</b> for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2, <b>in accordance with Article 66.</b> | <i>deleted</i>  | <i>deleted</i>  |
|  |   | <b>4. Personal data referred to in paragraph 1 may on the basis of Union or Member State law be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy</b> | 4. Personal data referred to in paragraph 1 may on the basis of Union or Member State law be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies. |



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|  |  | <b>under Union or Member State law or rules established by national competent bodies.</b>   |   |
|  |  | <i>5. Member States may maintain or introduce more specific provisions with regard to genetic data or health data. This includes the possibility for Member States to introduce further conditions for the processing of these data.</i>  | 5. Member States may maintain or introduce more specific provisions with regard to genetic data or health data. This includes the possibility for Member States to introduce further conditions for the processing of these data.   |
|  |  | <i>Article 9a</i>   | <i>Article 9a</i>   |
|  |  | <i>Processing of data relating to criminal convictions and offences</i>   | <i>Processing of data relating to criminal convictions and offences</i>   |
|  |  | <i>Processing of data relating to criminal convictions and offences or related security measures based on Article 6(1) may only be carried out either under the control of official authority or when the processing is authorised by Union law or Member State law providing for adequate safeguards for the rights and freedoms of data subjects. A complete register of criminal convictions may be kept only under the control of official authority.</i> | Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) may only be carried out either under the control of official authority or when the processing is authorised by Union law or Member State law providing for adequate safeguards for the rights and freedoms of data subjects. A complete register of criminal convictions may be kept only under the control of official authority. |

| <i>Article 10</i>   | <i>Article 10</i>  | <i>Article 10</i>   | <i>Article 10</i>  |
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| <i>Processing not allowing identification</i>   | <i>Processing not allowing identification</i>  | <i>Processing not allowing requiring identification</i>   | <i>Processing not requiring identification</i>   |
|   | <i>Amendment 104</i>   |   |  |
| If the data processed by a controller do not permit the controller to identify a natural person, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation. | <i>1. If the data processed by a controller do not permit the controller or processor to directly or indirectly identify a natural person, or consist only of pseudonymous data, the controller shall not be obliged to process or acquire additional information in order to identify the data subject for the sole purpose of complying with any provision of this Regulation.</i> | If the data processed by <del>purposes for which a controller processes personal data</del> do not permit <del>to no longer require the identification of a data subject by the controller to</del> identify a natural person, the controller shall not be obliged to <i>maintain or</i> acquire additional information <i>nor to engage in additional processing</i> in order to identify the data subject for the sole purpose of complying with <del>any provision of this Regulation.</del> | 1. If the purposes for which a controller processes personal data do not or do no longer require the identification of a data subject by the controller, the controller shall not be obliged to acquire additional information in order to identify the data subject for the sole purpose of complying with this Regulation.                   |
|   | <i>2. Where the data controller is unable to comply with a provision of this Regulation because of paragraph 1, the controller shall not be obliged to comply with that particular provision of this Regulation. Where as a consequence the data controller is unable to comply with a request of the data subject, it shall inform the data subject accordingly.</i>                | <i>2. Where, in such cases the controller is not in a position to identify the data subject, articles 15, 16, 17, 17a, 17b and 18 do not apply except where the data subject, for the purpose of exercising his or her rights under these articles, provides additional information enabling his or her identification.</i>   | 2. Where, in such cases the controller can demonstrate that it is not in a position to identify the data subject, articles 15, 16, 17, [17a, 17b] and 18 do not apply except where the data subject, for the purpose of exercising his or her rights under these articles, provides additional information enabling his or her identification. |