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NOTE

From:	Presidency
To:	Delegations
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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) - Written debrief on Chapter VIII

1. On 28th October 2015, the representatives of the Council, the European Parliament and the Commission discussed in a trilogue on the General Data Protection Regulation the provisions related to chapter VIII on Remedies, Liability and Sanctions. The Presidency's interventions were based on the Council's General Approach and the discussions that took place in the Friends of Presidency DAPIX meeting of 14th October 2015 and the JHA Counsellors meetings of 23rd October 2015.

As regards Chapter VIII, tentative solutions could be found on a number of provisions. These are indicated in the 4th column. Delegations will note that the Council's General Approach could be maintained on a large amount of issues. Still, on a few elements, the positions of the co-legislators are diverging. The Presidency seeks the additional views of delegations on some of these remaining open issues, while retaining the mandate previously obtained.

Delegations are reminded that provisions relating to articles not covered by this trilogue, or which are linked to provisions not yet agreed in other chapters, or which have to be rediscussed are marked in [brackets].

Delegations are also reminded that following the trilogue, minor modifications were made to simplify wording, to adapt cross-references or to align with provisions elsewhere in the Regulation.

Delegations are reminded that the recitals will be adapted accordingly to the changes made in the articles.

2. In Article 73(1), the co-legislators tentatively agreed to move the reference to the consistency mechanism, as proposed by the European Parliament, to a recital. In the same paragraph, the European Parliament requests the deletion of the term “single”. The European Parliament fears that if the supervisory authority does not act on the complaint, this addition will prevent the data subject from lodging a complaint with another supervisory authority. The Presidency pointed to the risk of abuse where a same complaint would be sent to multiple supervisory authorities. The European Parliament could accept clarifying this in a recital on the condition that the term “single” is deleted in Article 73(1). In turn, the European Parliament would be ready to accept the deletion of Article 74(4).

3. In Article 74(2) on the “*right to a judicial remedy against a supervisory authority*” the European Parliament asks for the deletion of the terms “*or any shorter period provided under Union or Member State law*” at the end of the paragraph for reasons of harmonisation. The Presidency considers this as acceptable.

4. The co-legislators tentatively agreed to slightly rephrase the beginning of Article 75(1) by referring to “*each data subject*” for reasons of consistency with other articles in this Chapter.

5. In Article 75(2), the European Parliament insists on a reference to the public authority “*of a Member State*”. The Presidency considers that this is acceptable.

6. In Article 76(1) and (2), the European Parliament insists on adding a reference to Article 77. Since such an addition is not acceptable for Council, the European Parliament proposes to introduce such reference only in Article 76(1) and to further frame the notion of the bodies, organizations or associations that would be able to act, possibly by referring to the non-profit making character of the organisations and/or their public interest objectives as an addition to the protection of personal data. The Presidency considers that these elements could be an avenue for finding a compromise.
7. The European Parliament asks to have a reference to “*or of an action*” in Article 77(1) to have a broader scope. In order to avoid confusion with the term “*processing*”, the co-legislators tentatively agreed on a redrafting of this paragraph and refer to “*an infringement of this Regulation*”, as indicated in the 4th column.
8. The European Parliament insists on having a “*may*” instead of a “*shall*” in Article 77(3) when it comes to exemption from liability. In exchange the European Parliament would be ready to accept the deletion of any reference to “*jointly and severally liable*” in Article 77 and accept the Council’s General Approach. In a spirit of compromise, the European Parliament proposes to come back to the original wording proposed by the Commission in Article 77(3) “*The controller or processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage*”. Considering that this is the original wording of the Directive 95/46, delegations are invited to indicate their flexibility on this.
9. In Article 79(1), the European Parliament insists on having dissuasive amounts for the fines and sticks to its position when it comes to the maximum amounts. The European Parliament also insists on a “*shall*” in Article 79(1) which the Presidency considers not acceptable in particular given the approach taken in the Council’s General Approach. At the same time, the European Parliament could be ready to largely accept a structure leading to more harmonisation in the imposition of fines, based on the Council’s General Approach. For the same reasons of harmonisation, the European Parliament could accept Article 79(3b) if Article 79(5) of the Council’s General Approach is deleted. Delegations are invited to share their views on this.
10. Taking into account the overall balance of these chapters, subject to alignment of the relevant recitals, and recalling that nothing is agreed until everything is agreed, the Presidency invites the views of the delegations on these issues.

The markings in this table are to be read as follows:

- Second column with first reading Position of the European Parliament: new text is marked in bold italics; deleted parts of the text are marked in strikethrough, text identical with the Commission proposal is marked - with a diagonal line in the box.
 - Third column with General Approach of the Council: new text is marked in bold italics; deleted parts of the text are marked in strikethrough, parts of the text that have been moved up or down are marked in bold.
 - Fourth column: the diagonal line in the box indicates that the text is identical for all three institutions; text tentatively agreed is included.
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COM (2012)0011	EP Position / First Reading	Council General Approach (15/06/2015)	Comments / compromise suggestions
	<i>Amendment 75</i>		
(111) Every data subject should have the right to lodge a complaint with a supervisory authority in any Member State and have the right to a judicial remedy if they consider that their rights under this Regulation are infringed or where the supervisory authority does not react on a complaint or does not act where such action is necessary to protect the rights of the data subject.	(111) Every data Data subject subjects should have the right to lodge a complaint with a supervisory authority in any Member State and have the right to a an effective judicial remedy in accordance with Article 47 of the Charter of Fundamental Rights if they consider that their rights under this Regulation are infringed or where the supervisory authority does not react on a complaint or does not act where such action is necessary to protect the rights of the data subject.	(111) Every data subject should have the right to lodge a complaint with a supervisory authority, in particular in the Member State of his or her habitual residence , in any Member State and have the right to an effective judicial remedy in accordance with Article 47 of the Charter of Fundamental Rights if the data subject if they considers that their his or her rights under this Regulation are infringed or where the supervisory authority does not react on a complaint, partially or wholly rejects or dismisses a complaint or does not act where such action is necessary to protect the rights of the data subject. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case.	<i>To be aligned with the relevant article(s)</i>

		<i>The supervisory authority should inform the data subject of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject. In order to facilitate the submission of complaints, each supervisory authority should take measures such as providing a complaint submission form which can be completed also electronically, without excluding other means of communication.</i>	<i>To be aligned with the relevant article(s)</i>
	Amendment 76		
(112) Any body, organisation or association which aims to protect the rights and interests of data subjects in relation to the protection of their data and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority or exercise the right to a judicial remedy on behalf of data	(112) Any body, organisation or association which aims to protect the rights and interests of data subjects in relation to the protection of their data acts in the public interest and is constituted according to the law of a Member State should have the right to lodge a complaint with a supervisory authority on behalf of data subjects	(112) Where a data subject considers that his or her rights under this Regulation are infringed, he or she should have the right to mandate a Any body, organisation or association which aims to protect the rights and interests of data subjects in relation to the protection of their data and is constituted according to the law of	<i>To be aligned with the relevant article(s)</i>

<p>subjects, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach has occurred.</p>	<p><i>with their consent</i> or exercise the right to a judicial remedy on behalf of <i>if mandated by the</i> data subject, or to lodge, independently of a data subject's complaint, an own complaint where it considers that a personal data breach <i>of this Regulation</i> has occurred.</p>	<p>a Member State, should have the right to lodge a complaint on his or her behalf with a supervisory authority or exercise the right to a judicial remedy on behalf of data subjects. <i>Member States may provide that such a body, organisation or association should have the right, or to lodge, independently of a data subject's mandate, in such Member State a complaint, and/or have the right to an own effective judicial remedy complaint where it has reasons to consider that the rights of a data subject have been infringed as a result of the processing of a personal data breach has occurred which is not in compliance with this Regulation. This body, organisation or association may not be allowed to claim compensation on a data subject's behalf.</i></p>	
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<p>(113) Each natural or legal person should have the right to a judicial remedy against decisions of a supervisory authority concerning them. Proceedings against a supervisory authority should be brought before the courts of the Member State, where the supervisory authority is established.</p>	<p>(113) Each natural or legal person should have the right to a judicial remedy against decisions of a supervisory authority concerning them. Proceedings against a supervisory authority should be brought before the courts of the Member State, where the supervisory authority is established.</p>	<p>(113) Each Any natural or legal person should have has the right to <i>bring an action for annulment of decisions of the European Data Protection Board before the Court of Justice of the European Union (the “Court of Justice”) under the conditions provided for in Article 263 TFEU. As addressees of such decisions, the concerned supervisory authorities who wish to challenge them, have to bring action within two months of their notification to them, in accordance with Article 263 TFEU. Where decisions of the European Data Protection Board are of direct and individual concern to a controller, processor or the complainant, the latter may bring an action for annulment against those decisions and they should do so within two months of their publication on the website of the European Data Protection Board, in accordance with Article 263 TFEU. Without prejudice to this right under</i></p>	<p><i>To be aligned with the relevant article(s)</i></p>
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		<p><i>Article 263 TFEU, each natural or legal person should have an effective judicial remedy before the competent national court against a decisions of a supervisory authority which produces legal effects concerning themthis person.</i></p> <p><i>Such a decision concerns in particular the exercise of investigative, corrective and authorisation powers by the supervisory authority or the dismissal or rejection of complaints. However, this right does not encompass other measures of supervisory authorities which are not legally binding, such as opinions issued by or advice provided by the</i></p>	
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		<p><i>supervisory authority.</i> Proceedings against a supervisory authority should be brought before the courts of the Member State, where the supervisory authority is established <i>and should be conducted in accordance with the national procedural law of that Member State. Those courts should exercise full jurisdiction which should include jurisdiction to examine all questions of fact and law relevant to the dispute before it. Where a complaint has been rejected or dismissed by a supervisory authority, the complainant may bring proceedings to the courts in the same Member State. In the context of judicial remedies relating to the application of this Regulation, national courts which consider a decision on the question necessary to enable them to give judgment, may, or in the case provided for in Article 267 TFEU, must, request the Court of Justice to give a preliminary ruling on the interpretation of Union law including this Regulation.</i></p>	
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		<p><i>Furthermore, where a decision of a supervisory authority implementing a decision of the European Data Protection Board is challenged before a national court and the validity of the decision of the European Data Protection Board is at issue, that national court does not have the power to declare the European Data Protection Board's decision invalid but must refer the question of validity to the Court of Justice in accordance with Article 267 TFEU as interpreted by the Court of Justice in the Foto-frost case¹, whenever it considers the decision invalid. However, a national court may not refer a question on the validity of the decision of the European Data Protection Board at the request of a natural or legal person which had the opportunity to bring an action for annulment of that decision, in particular if it was directly and individually concerned by that decision, but had not done so within the period laid down by Article 263 TFEU.</i></p>	
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¹ Case C-314/85

		<p><i>(113a) Where a court seized with a proceeding against a decision of a supervisory authority has reason to believe that proceedings concerning the same processing such as the same subject matter as regards processing of the same controller or processor activities or the same cause of action are brought before a competent court in another Member State, it should contact that court in order to confirm the existence of such related proceedings. If related proceedings are pending before a court in another Member State, any court other than the court first seized may stay its proceedings or may, on request of one of the parties, decline jurisdiction in favour of the court first seized if the latter has jurisdiction over the proceedings in question and its law permits the consolidation of such related proceedings. Proceedings are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.</i></p>	<p><i>To be aligned with the relevant article(s)</i></p>
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	<i>Amendment 77</i>		
(114) In order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request any body, organisation or association aiming to protect the rights and interests of data subjects in relation to the protection of their data to bring on the data subject's behalf proceedings against that supervisory authority to the competent court in the other Member State.	(114) In order to strengthen the judicial protection of the data subject in situations where the competent supervisory authority is established in another Member State than the one where the data subject is residing, the data subject may request mandate any body, organisation or association aiming to protect the rights and interests of data subjects in relation to the protection of their data acting in the public interest to bring on the data subject's behalf proceedings against that supervisory authority to the competent court in the other Member State.	<i>deleted</i>	<i>Deleted see the recital 112</i>

	<i>Amendment 78</i>		
(115) In situations where the competent supervisory authority established in another Member State does not act or has taken insufficient measures in relation to a complaint, the data subject may request the supervisory authority in the Member State of his or her habitual residence to bring proceedings against that supervisory authority to the competent court in the other Member State. The requested supervisory authority may decide, subject to judicial review, whether it is appropriate to follow the request or not.	(115) In situations where the competent supervisory authority established in another Member State does not act or has taken insufficient measures in relation to a complaint, the data subject may request the supervisory authority in the Member State of his or her habitual residence to bring proceedings against that supervisory authority to the competent court in the other Member State. <i>This does not apply to non-EU residents.</i> The requested supervisory authority may decide, subject to judicial review, whether it is appropriate to follow the request or not.	<i>deleted</i>	<i>Deleted see recital 113</i>

	<i>Amendment 79</i>		
(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers.	(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or, <i>in case of EU residence</i> , where the data subject resides, unless the controller is a public authority <i>of the Union or a Member State</i> acting in the exercise of its public powers.	(116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers.	<i>To be aligned with the relevant article(s)</i>
(117) Where there are indications that parallel proceedings are pending before the courts in different Member States, the courts should be obliged to contact each other. The courts should have the possibility to suspend a case where a parallel case is pending in another Member State. Member States should ensure that court actions, in order to be effective, should allow the rapid adoption of measures to remedy or prevent an infringement of this Regulation.	(117) Where there are indications that parallel proceedings are pending before the courts in different Member States, the courts should be obliged to contact each other. The courts should have the possibility to suspend a case where a parallel case is pending in another Member State. Member States should ensure that court actions, in order to be effective, should allow the rapid adoption of measures to remedy or prevent an infringement of this Regulation.	<i>deleted</i>	<i>Deleted see recital 113a</i>

	<i>Amendment 80</i>		
(118) Any damage which a person may suffer as a result of unlawful processing should be compensated by the controller or processor, who may be exempted from liability if they prove that they are not responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure.	(118) Any damage, <i>whether pecuniary or not</i> , which a person may suffer as a result of unlawful processing should be compensated by the controller or processor, who may be exempted from liability <i>only</i> if they prove <i>he proves</i> that they are <i>he is</i> not responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure.	(118) Any damage which a person may suffer as a result of unlawful processing <i>that is not in compliance with this Regulation</i> should be compensated by the controller or processor, who may <i>should</i> be exempted from liability if they prove that they are not <i>in any way</i> responsible for the damage, in particular where he establishes fault on the part of the data subject or in case of force majeure. <i>The concept of damage should be broadly interpreted in the light of the case law of the Court of Justice of the European Union in a manner which fully reflects the objectives of this Regulation. This is without prejudice to any claims for damage deriving from the violation of other rules in Union or Member State law.</i> <i>When reference is made to a processing that is not in compliance with this Regulation it also covers processing that is not</i>	<i>To be aligned with the relevant article(s)</i>

		<p><i>in compliance with delegated and implementing acts adopted in accordance with this Regulation and national law specifying rules of this Regulation. Data subjects should receive full and effective compensation for the damage they have suffered. Where controllers or processors are involved in the same processing each controller or processor should be held liable for the entire damage. However, where they are joined to the same judicial proceedings, in accordance with national law, compensation may be apportioned according to the responsibility of each controller or processor for the damage caused by the processing, provided that full and effective compensation of the data subject who suffered the damage is ensured. Any controller or processor who has paid full compensation, may subsequently institute recourse proceedings against other controllers or processors involved in the same processing.</i></p>	
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		<i>(118a) Where specific rules on jurisdiction are contained in this Regulation, in particular as regards proceedings seeking a judicial remedy including compensation, against a controller or processor, general jurisdiction rules such as those of Regulation (EU) No 1215/2012 should not prejudice the application of such specific rules.</i>	<i>To be aligned with the relevant article(s)</i>
		<i>(118b) In order to strengthen the enforcement of the rules of this Regulation, penalties and administrative fines may be imposed for any infringement of the Regulation, in addition to, or instead of appropriate measures imposed by the supervisory authority pursuant to this Regulation. In a case of a minor infringement or if the fine likely to be imposed would constitute a disproportionate burden to a natural person, a reprimand may be issued instead of a fine. Due regard should however be given to the nature, gravity and duration of the infringement, the intentional character of the infringement,</i>	<i>To be aligned with the relevant article(s)</i>

		<p><i>actions taken to mitigate the damage suffered, degree of responsibility or any relevant previous infringements, the manner in which the infringement became known to the supervisory authority, compliance with measures ordered against the controller or processor, adherence to a code of conduct and any other aggravating or mitigating factor. The imposition of penalties and administrative fines should be subject to adequate procedural safeguards in conformity with general principles of Union law and the Charter of Fundamental Rights, including effective judicial protection and due process. Where the national law of a Member State does not provide for administrative fines, such Member State may abstain from providing administrative fines for infringements of this Regulation that are already subject to criminal sanctions in their national law ensuring that these criminal sanctions are effective, proportionate and dissuasive,</i></p>	
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		<i>taking into account the level of administrative fines provided for in this Regulation.</i>	
	<i>Amendment 81</i>		
(119) Penalties should be imposed to any person, whether governed by private or public law, who fails to comply with this Regulation. Member States should ensure that the penalties should be effective, proportionate and dissuasive and should take all measures to implement the penalties.	(119) Penalties should be imposed to any person, whether governed by private or public law, who fails to comply with this Regulation. Member States should ensure that the penalties should be effective, proportionate and dissuasive and should take all measures to implement the penalties. <i>The rules on penalties should be subject to appropriate procedural safeguards in conformity with the general principles of Union law and the Charter of Fundamental Rights, including those concerning the right to an effective judicial remedy, due process and the principle of ne bis in idem.</i>	(119) <i>Member States may lay down the rules on criminal sanctions for infringements of this Regulation, including for infringements of national rules adopted pursuant to and within the limits of</i> Penalties should be imposed to any person, whether governed by private or public law, who fails to comply with this Regulation. <i>These criminal sanctions may also allow for the deprivation of the profits obtained through infringements of this Regulation. However, the imposition of criminal sanctions for infringements of such national rules and of administrative</i>	<i>To be aligned with the relevant article(s)</i>

		<p><i>sanctions</i> Member States should ensure that the penalties should be effective, proportionate and dissuasive and should take all measures to implement the penalties <i>not lead to the breach of the principle of ne bis in idem, as interpreted by the Court of Justice.</i></p>	
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	<i>Amendment 82</i>		
	<i>(119a) In applying penalties, Member States should show full respect for appropriate procedural safeguards, including the right to an effective judicial remedy, due process, and the principle of ne bis in idem.</i>		
(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences. This Regulation should indicate these offences and the upper limit for the related administrative fines, which should be fixed in each individual case proportionate to the specific situation, with due regard in particular to the nature, gravity and duration of the breach.	(120) In order to strengthen and harmonise administrative sanctions against infringements of this Regulation, each supervisory authority should have the power to sanction administrative offences. This Regulation should indicate these offences and the upper limit for the related administrative fines, which should be fixed in each individual case proportionate to the specific situation, with due regard in particular to the nature, gravity and duration of the breach.	(120) In order to strengthen and harmonise administrative sanctions penalties against infringements of this Regulation, each supervisory authority should have the power to impose sanction administrative offences fines . This Regulation should indicate these offences and , the upper limit and criteria for fixing the related administrative fines, which should be fixed determined by the competent supervisory authority in each individual case, taking into	<i>To be aligned with the relevant article(s)</i>

<p>The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.</p>	<p>The consistency mechanism may also be used to cover divergences in the application of administrative sanctions.</p>	<p><i>account all relevant circumstances of proportionate to the specific situation, with due regard in particular to the nature, gravity and duration of the breach and of its consequences and the measures taken to ensure compliance with the obligations under the Regulation and to prevent or mitigate the consequences of the infringement. Where the fines are imposed on persons that are not a commercial undertaking, the supervisory authority should take account of the general level of income in the Member State in considering the appropriate amount of fine.</i> The consistency mechanism may also be used to promote a consistent cover <i>divergences in the application of administrative sanctions fines. It should be for the Member States to determine whether and to which extent public authorities should be subject to administrative fines. Imposing an administrative fine or giving a warning does not affect the application of other powers of the supervisory authorities or of other sanctions under the Regulation.</i></p>	
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		<p><i>(120a) Where this Regulation does not harmonise administrative penalties or where necessary in other cases, for example in cases of serious infringements of the Regulation, Member States should implement a system which provides for effective, proportionate and dissuasive penalties. The nature of such penalties (criminal or administrative) should be determined by national law.</i></p>	
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CHAPTER VIII REMEDIES, LIABILITY AND SANCTIONS	CHAPTER VIII REMEDIES, LIABILITY AND SANCTIONS	CHAPTER VIII REMEDIES, LIABILITY AND SANCTIONS	
<i>Article 73</i>	<i>Article 73</i>	<i>Article 73</i>	<i>Article 73</i>
<i>Right to lodge a complaint with a supervisory authority</i>	<i>Right to lodge a complaint with a supervisory authority</i>	<i>Right to lodge a complaint with a supervisory authority</i>	<i>Right to lodge a complaint with a supervisory authority</i>
	<i>Amendment 182</i>		
1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.	1. Without prejudice to any other administrative or judicial remedy and the consistency mechanism , every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.	1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a single supervisory authority, in particular in any the Member State of his or her habitual residence, place of work or place of the alleged infringement if they the data subject considers that the processing of personal data relating to them him or her does not comply with this Regulation.	<i>Tentative agreement in trilogue</i> 1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a [single] supervisory authority, in particular in the Member State of his or her habitual residence, place of work or place of the alleged infringement if the data subject considers that the processing of personal data relating to him or her does not comply with this Regulation.

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.	2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data acts in the public interest and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.	3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach of this Regulation has occurred.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>

		<p>4.</p> <p><i>5. The supervisory authority to which the complaint has been lodged shall inform the complainant on the progress and the outcome of the complaint including the possibility of a judicial remedy pursuant to Article 74.</i></p>	<p><i>Tentative agreement in trilogue</i></p> <p>5. The supervisory authority to which the complaint has been lodged shall inform the complainant on the progress and the outcome of the complaint including the possibility of a judicial remedy pursuant to Article 74.</p>
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<i>Article 74</i>	<i>Article 74</i>	<i>Article 74</i>	<i>Article 74</i>
<i>Right to a judicial remedy against a supervisory authority</i>	<i>Right to a judicial remedy against a supervisory authority</i>	<i>Right to a judicial remedy against a supervisory authority</i>	<i>Right to a judicial remedy against a supervisory authority</i>
	<i>Amendment 183</i>		
1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.	1. <i>Without prejudice to any other administrative or non-judicial remedy</i> , Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.	1. <i>Without prejudice to any other administrative or non-judicial remedy</i> , Each natural or legal person shall have the right to <i>an effective</i> judicial remedy against <i>a legally binding</i> decisions of a supervisory authority concerning them.	<i>Tentative agreement in trilogue</i> 1. Without prejudice to any other administrative or non-judicial remedy, each natural or legal person shall have the right to an effective judicial remedy against a legally binding decisions of a supervisory authority concerning them.

2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).	2. <i>Without prejudice to any other administrative or non-judicial remedy</i> , Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).	2. <i>Without prejudice to any other administrative or non-judicial remedy</i> , Each data subject shall have the right to a an effective judicial remedy obliging where the supervisory authority <i>competent in accordance with Article 51 and Article 51a does not deal with</i> to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months <i>or any shorter period provided under Union or Member State law</i> on the progress or outcome of the complaint pursuant to point (b) of Article 52(1) <i>lodged under Article 73</i> .	<i>Tentative agreement in trilogue</i> 2. Without prejudice to any other administrative or non-judicial remedy, each data subject shall have the right to a an effective judicial remedy where the supervisory authority competent in accordance with Article 51 and Article 51a does not deal with a complaint or does not inform the data subject within three months on the progress or outcome of the complaint lodged under Article 73.
3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.	3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.	3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.	<i>Tentative agreement in trilogue:</i> 3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.

		<i>3a. Where proceedings are brought against a decision of a supervisory authority which was preceded by an opinion or a decision of the European Data Protection Board in the consistency mechanism, the supervisory authority shall forward that opinion or decision to the court.</i>	<i>Tentative agreement in trilogue:</i> 3a. Where proceedings are brought against a decision of a supervisory authority which was preceded by an opinion or a decision of the European Data Protection Board in the consistency mechanism, the supervisory authority shall forward that opinion or decision to the court.
4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.	<i>4. Without prejudice to the consistency mechanism</i> A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.	<i>deleted</i>	<i>To be rediscussed at a later stage</i>
5. The Member States shall enforce final decisions by the courts referred to in this Article.	5. The Member States shall enforce final decisions by the courts referred to in this Article.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>

<i>Article 75</i>	<i>Article 75</i>	<i>Article 75</i>	<i>Article 75</i>
<i>Right to a judicial remedy against a controller or processor</i>	<i>Right to a judicial remedy against a controller or processor</i>	<i>Right to an effective judicial remedy against a controller or processor</i>	<i>Right to an effective judicial remedy against a controller or processor</i>
1. Without prejudice to any available administrative remedy, including the right to lodge a complaint with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.	1. Without prejudice to any available administrative remedy, including the right to lodge a complaint with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.	1. Without prejudice to any available administrative <i>or non-judicial</i> remedy, including the right to lodge a complaint with a supervisory authority as referred to in <i>under</i> Article 73, every natural person <i>data subjects</i> shall have the right to an <i>effective</i> judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.	<i>Tentative agreement in trilogue:</i> 1. Without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint with a supervisory authority under Article 73, each data subject shall have the right to an effective judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.

	<i>Amendment 184</i>		
2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers.	2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority <i>of the Union or a Member State</i> acting in the exercise of its public powers.	2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its <i>his or her</i> habitual residence, unless the controller <i>or processor</i> is a public authority acting in the exercise of its public powers.	<i>Tentative agreement in trilogue:</i> 2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has his or her habitual residence, unless the controller or processor is a public authority of a Member State acting in the exercise of its public powers.

3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.	3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
4. The Member States shall enforce final decisions by the courts referred to in this Article.	4. The Member States shall enforce final decisions by the courts referred to in this Article.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>deleted</i>

<i>Article 76</i>	<i>Article 76</i>	<i>Article 76</i>	<i>Article 76</i>
<i>Common rules for court proceedings</i>	<i>Common rules for court proceedings</i>	<i>Representation of data subjects</i>	<i>Representation of data subjects</i>
	<i>Amendment 185</i>		
1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.	1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and, 75 on behalf of and 77 if mandated by one or more data subjects.	1. The data subject shall have the right to mandate Any a body, organisation or association, which has been properly constituted according to the law of a Member State and whose statutory objectives include the protection of data subject's rights and freedoms with regard to the protection of their personal data to lodge the complaint on hir or her behalf and referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 73 , 74 and 75 on his or her behalf of one or more data subjects.	<i>To be rediscussed at a later stage</i>

<p>2. Each supervisory authority shall have the right to engage in legal proceedings and bring an action to court, in order to enforce the provisions of this Regulation or to ensure consistency of the protection of personal data within the Union.</p>	<p>2. Each supervisory authority shall have the right to engage in legal proceedings and bring an action to court, in order to enforce the provisions of this Regulation or to ensure consistency of the protection of personal data within the Union.</p>	<p>2. Each supervisory authority shall have the right to engage in legal proceedings and bring an action to court, in order to enforce the provisions of this Regulation or to ensure consistency of the protection of personal data within the Union <i>Member States may provide that any body, organisation or association referred to in paragraph 1, independently of a data subject's mandate, shall have in such Member State the right to lodge a complaint with the supervisory authority competent in accordance with Article 73 and to exercise the rights referred to in Articles 73, 74 and 75 if it considers that the rights of a data subject have been infringed as a result of the processing of personal data that is not in compliance with this Regulation.</i></p>	<p><i>Tentative agreement in trilogue:</i></p> <p>2. Member States may provide that any body, organisation or association referred to in paragraph 1, independently of a data subject's mandate, shall have in such Member State the right to lodge a complaint with the supervisory authority competent in accordance with Article 73 and to exercise the rights referred to in Articles 74 and 75 if it considers that the rights of a data subject have been infringed as a result of the processing of personal data that is not in compliance with this Regulation.</p>
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3. Where a competent court of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent court in the other Member State to confirm the existence of such parallel proceedings.	3. Where a competent court of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent court in the other Member State to confirm the existence of such parallel proceedings.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
4. Where such parallel proceedings in another Member State concern the same measure, decision or practice, the court may suspend the proceedings.	4. Where such parallel proceedings in another Member State concern the same measure, decision or practice, the court may suspend the proceedings.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
5. Member States shall ensure that court actions available under national law allow for the rapid adoption of measures including interim measures, designed to terminate any alleged infringement and to prevent any further impairment of the interests involved.	5. Member States shall ensure that court actions available under national law allow for the rapid adoption of measures including interim measures, designed to terminate any alleged infringement and to prevent any further impairment of the interests involved.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>

		<i>Article 76a</i>	Article 76a
		<i>Suspension of proceedings</i>	Suspension of proceedings
		<i>1. Where a competent court of a Member State has information on proceedings concerning the same subject matter as regards processing of the same controller or processor are pending in a court in another Member State, it shall contact that court in the other Member State to confirm the existence of such proceedings.</i>	<i>Tentative agreement in trilogue:</i> 1. Where a competent court of a Member State has information on proceedings concerning the same subject matter as regards processing of the same controller or processor are pending in a court in another Member State, it shall contact that court in the other Member State to confirm the existence of such proceedings.
		<i>2. Where proceedings concerning the same subject matter as regards processing of the same controller or processor are pending in a court in another Member State, any competent court other than the court first seized may suspend its proceedings.</i>	<i>Tentative agreement in trilogue:</i> 2. Where proceedings concerning the same subject matter as regards processing of the same controller or processor are pending in a court in another Member State, any competent court other than the court first seized may suspend its proceedings.

		<p><i>2a. Where these proceedings are pending at first instance, any court other than the court first seized may also, on the application of one of the parties, decline jurisdiction if the court first seized has jurisdiction over the actions in question and its law permits the consolidation thereof.</i></p>	<p><i>Tentative agreement in trilogue:</i></p> <p>2a. Where these proceedings are pending at first instance, any court other than the court first seized may also, on the application of one of the parties, decline jurisdiction if the court first seized has jurisdiction over the actions in question and its law permits the consolidation thereof.</p>
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<i>Article 77</i>	<i>Article 77</i>	<i>Article 77</i>	<i>Article 77</i>
<i>Right to compensation and liability</i>	<i>Right to compensation and liability</i>	<i>Right to compensation and liability</i>	<i>Right to compensation and liability</i>
	<i>Amendment 186</i>		
1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.	1. Any person who has suffered damage, including non-pecuniary damage , as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive claim compensation from the controller or the processor for the damage suffered.	1. Any person who has suffered material or immaterial damage as a result of an unlawful processing operation or of an action incompatible which is not in compliance with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.	<i>Tentative agreement in trilogue:</i> 1. Any person who has suffered material or immaterial damage as a result of an infringement of the Regulation shall have the right to receive compensation from the controller or processor for the damage suffered.
	<i>Amendment 187</i>		
2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.	2. Where more than one controller or processor is involved in the processing, each controller of those controllers or processor processors shall be jointly and severally liable for the entire amount of the damage, unless they have an appropriate written agreement determining the responsibilities pursuant to Article 24.	2. Where more than one Any controller or processor is involved in the processing each controller or processor shall be jointly and severally liable for the entire amount of the damage caused by the processing which is not in compliance with this Regulation. A processor shall be liable for the damage caused by the processing only where it has not complied with obligations of this Regulation	<i>Tentative agreement in trilogue:</i> 2. Any controller involved in the processing shall be liable for the damage caused by the processing which is not in compliance with this Regulation. A processor shall be liable for the damage caused by the processing only where it has not complied with obligations of this Regulation specifically directed to processors or acted outside or contrary to lawful instructions of the controller.

		<i>specifically directed to processors or acted outside or contrary to lawful instructions of the controller.</i>	
3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.	3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.	3. The A controller or the processor may shall be exempted from this liability in accordance with paragraph 2 , in whole or in part, if the controller or the processor it proves that they are it is not in any way responsible for the event giving rise to the damage.	<i>To be rediscussed at a later stage</i>
		4. Where more than one controller or processor or a controller and a processor are involved in the same processing and, where they are, in accordance with paragraphs 2 and 3, responsible for any damage caused by the processing, each controller or processor shall be held liable for the entire damage.	<i>Tentative agreement in trilogue:</i> 4. Where more than one controller or processor or a controller and a processor are involved in the same processing and, where they are, in accordance with paragraphs 2 and 3, responsible for any damage caused by the processing, each controller or processor shall be held liable for the entire damage.

		<i>5. Where a controller or processor has, in accordance with paragraph 4, paid full compensation for the damage suffered, that controller or processor shall be entitled to claim back from the other controllers or processors involved in the same processing that part of the compensation corresponding to their part of responsibility for the damage in accordance with the conditions set out in paragraph 2.</i>	<i>Tentative agreement in trilogue:</i> 5. Where a controller or processor has, in accordance with paragraph 4, paid full compensation for the damage suffered, that controller or processor shall be entitled to claim back from the other controllers or processors involved in the same processing that part of the compensation corresponding to their part of responsibility for the damage in accordance with the conditions set out in paragraph 2.
		<i>6. Court proceedings for exercising the right to receive compensation shall be brought before the courts competent under national law of the Member State referred to in paragraph 2 of Article 75.</i>	<i>Tentative agreement in trilogue:</i> 6. Court proceedings for exercising the right to receive compensation shall be brought before the courts competent under national law of the Member State referred to in paragraph 2 of Article 75.

<i>Article 78</i>	<i>Article 78</i>	<i>Article 78</i>	
<i>Penalties</i>	<i>Penalties</i>	<i>Penalties</i>	
1. Member States shall lay down the rules on penalties, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented, including where the controller did not comply with the obligation to designate a representative. The penalties provided for must be effective, proportionate and dissuasive.	1. Member States shall lay down the rules on penalties, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented, including where the controller did not comply with the obligation to designate a representative. The penalties provided for must be effective, proportionate and dissuasive.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.	2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>
3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.	3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.	<i>deleted</i>	<i>Tentative agreement in trilogue:</i> <i>Deleted</i>

<i>Article 79</i>	<i>Article 79</i>	<i>Article 79</i>	<i>Article 79</i>
<i>Administrative sanctions</i>	<i>Administrative sanctions</i>	<i>General conditions for imposing administrative sanctions</i>	<i>General conditions for imposing administrative sanctions</i>
	<i>Amendment 188</i>		
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. <i>The supervisory authorities shall co-operate with each other in accordance with Articles 46 and 57 to guarantee a harmonized level of sanctions within the Union.</i>	1. Each supervisory authority shall be empowered to impose ensure <i>that the imposition of</i> administrative sanctions in accordance with in <i>fin</i> es pursuant to this Article <i>in respect of infringements of this Regulation referred to in Article 79a shall in each individual case be effective, proportionate and dissuasive.</i>	<i>To be rediscussed at a later stage</i>

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.	2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.	<i>deleted</i>	<i>To be rediscussed at a later stage</i>
	<i>2a. To anyone who does not comply with the obligations laid down in this Regulation, the supervisory authority shall impose at least one of the following sanctions:</i>		<i>To be rediscussed at a later stage</i>
	<i>a) a warning in writing in cases of first and non-intentional non-compliance;</i>		<i>To be rediscussed at a later stage</i>
	<i>b) regular periodic data protection audits;</i>		<i>To be rediscussed at a later stage</i>

	<i>c) a fine up to 100 000 000 EUR or up to 5% of the annual worldwide turnover in case of an enterprise, whichever is higher.</i>		<i>To be rediscussed at a later stage</i>
	<i>2b. If the controller or the processor is in possession of a valid "European Data Protection Seal" pursuant to Article 39, a fine pursuant to point (c) of paragraph 2a shall only be imposed in cases of intentional or negligent innon-compliance.</i>		<i>To be rediscussed at a later stage</i>
	<i>2c. The administrative sanction shall take into account the following factors:</i>		
	<i>a) the nature, gravity and duration of the innon-compliance,</i>		
	<i>b) the intentional or negligent character of the infringement,</i>		
	<i>c) the degree of responsibility of the natural or legal person and of previous breaches by this person,</i>		
	<i>d) the repetitive nature of the infringement,</i>		

	<i>e) the degree of co-operation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement,</i>		
	<i>f) the specific categories of personal data affected by the infringement,</i>		
	<i>(g) the level of damage, including non-pecuniary damage, suffered by the data subjects,</i>		
	<i>(h) the action taken by the controller or processor to mitigate the damage suffered by data subjects,</i>		
	<i>(i) any financial benefits intended or gained, or losses avoided, directly or indirectly from the infringement,</i>		

	<p><i>(j) the degree of technical and organisational measures and procedures implemented pursuant to:</i></p> <p><i>(i) Article 23 - Data protection by design and by default</i></p> <p><i>(ii) Article 30 - Security of processing</i></p> <p><i>(iii) Article 33 - Data protection impact assessment</i></p> <p><i>(iv) Article 33a - Data protection compliance review</i></p> <p><i>(v) Article 35 - Designation of the data protection officer</i></p>		
	<p><i>(k) the refusal to cooperate with or obstruction of inspections, audits and controls carried out by the supervisory authority pursuant to Article 53,</i></p>		
	<p><i>(l) other aggravating or mitigating factors applicable to the circumstance of the case.</i></p>		

		<i>2a. Administrative fines shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, measures referred to in points (a) to (f) of paragraph 1b of Article 53. When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:</i>	<i>Tentative agreement in trilogue:</i> 2a. Administrative fines shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, measures referred to in points (a) to (f) and (h) of paragraph 1b of Article 53. When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:
		<i>(a) the nature, gravity and duration of the infringement having regard to the nature scope or purpose of the processing concerned as well as the number of data subjects affected and the level of damage suffered by them;</i>	<i>Tentative agreement in trilogue:</i> (a) the nature, gravity and duration of the infringement having regard to the nature scope or purpose of the processing concerned as well as the number of data subjects affected and the level of damage suffered by them;
		<i>(b) the intentional or negligent character of the infringement;</i>	<i>Tentative agreement in trilogue:</i> (b) the intentional or negligent character of the infringement;
		<i>(e)</i>	

		<i>(d) action taken by the controller or processor to mitigate the damage suffered by data subjects;</i>	<i>Tentative agreement in trilogue:</i> (d) action taken by the controller or processor to mitigate the damage suffered by data subjects;
		<i>(e) the degree of responsibility of the controller or processor having regard to technical and organisational measures implemented by them pursuant to Articles 23 and 30;</i>	<i>Tentative agreement in trilogue:</i> (e) the degree of responsibility of the controller or processor having regard to technical and organisational measures implemented by them pursuant to Articles 23 and 30;
		<i>(f) any relevant previous infringements by the controller or processor;</i>	<i>Tentative agreement in trilogue:</i> (f) any relevant previous infringements by the controller or processor;
			<i>Tentative agreement in trilogue:</i> (g) (new) the degree of co-operation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement,

			<i>Tentative agreement in trilogue:</i> (ga) (new) the categories of personal data affected by the infringement,
		(g)	
		<i>(h) the manner in which the infringement became known to the supervisory authority, in particular whether, and if so to what extent, the controller or processor notified the infringement;</i>	<i>Tentative agreement in trilogue:</i> (h) the manner in which the infringement became known to the supervisory authority, in particular whether, and if so to what extent, the controller or processor notified the infringement;
		<i>(i) in case measures referred to in and points (a), (d), (e) and (f) of paragraph 1b of Article 53, have previously been ordered against the controller or processor concerned with regard to the same subject-matter, compliance with these measures;</i>	<i>Tentative agreement in trilogue:</i> (i) in case measures referred to in paragraph 1b of Article 53, have previously been ordered against the controller or processor concerned with regard to the same subject-matter, compliance with these measures

		<i>(j) adherence to approved codes of conduct pursuant to Article 38 or approved certification mechanisms pursuant to Article 39;</i>	<i>Tentative agreement in trilogue:</i> (j) adherence to approved codes of conduct pursuant to Article 38 or approved certification mechanisms pursuant to Article 39;
		(k) (l) <i>(m) any other aggravating or mitigating factor applicable to the circumstances of the case.</i>	<i>Tentative agreement in trilogue:</i> (m) any other aggravating or mitigating factor applicable to the circumstances of the case.
3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:	<i>deleted</i>	<i>deleted</i>	
a) a natural person is processing personal data without a commercial interest; or	<i>deleted</i>	<i>deleted</i>	

b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.	<i>deleted</i>	3.b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities. <i>Each Member State may lay down the rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.</i>	<i>To be rediscussed at a later stage</i>
4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:	<i>deleted</i>	4. The <i>exercise by the</i> supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently: <i>of its powers under this Article shall be subject to appropriate procedural safeguards in conformity with Union law and Member State law, including effective judicial remedy and due process.</i>	<i>Tentative agreement in trilogue:</i> 4. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in conformity with Union law and Member State law, including effective judicial remedy and due process.
(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);	<i>deleted</i>	<i>deleted</i>	

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).	<i>deleted</i>	<i>deleted</i>	
5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:	<i>deleted</i>	<p>5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently. <i>Member States may abstain from providing rules for administrative fines as referred to in paragraphs 1, 2 and 3 of Article 79a where their legal system does not provide for administrative fines and the infringements referred to therein are already subject to criminal sanctions in their national law by [date referred to in Article 91(2)], while ensuring that these criminal sanctions are effective, proportionate and dissuasive, taking into account the level of administrative fines provided for in this Regulation.</i></p> <p><i>Where they so decide, Member States shall notify, to the Commission, the relevant parts of their criminal law.</i></p>	<i>To be rediscussed at a later stage</i>

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;	<i>deleted</i>	<i>deleted</i>	
(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;	<i>deleted</i>	<i>deleted</i>	
(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;	<i>deleted</i>	<i>deleted</i>	
(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;	<i>deleted</i>	<i>deleted</i>	

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;	<i>deleted</i>	<i>deleted</i>	
(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);	<i>deleted</i>	<i>deleted</i>	
(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.	<i>deleted</i>	<i>deleted</i>	
6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:	<i>deleted</i>	<i>deleted</i>	

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;	<i>deleted</i>	<i>deleted</i>	
(b) processes special categories of data in violation of Articles 9 and 81;	<i>deleted</i>	<i>deleted</i>	
(c) does not comply with an objection or the requirement pursuant to Article 19;	<i>deleted</i>	<i>deleted</i>	
(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;	<i>deleted</i>	<i>deleted</i>	
(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;	<i>deleted</i>	<i>deleted</i>	
(f) does not designate a representative pursuant to Article 25;	<i>deleted</i>	<i>deleted</i>	

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;	<i>deleted</i>	<i>deleted</i>	
(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;	<i>deleted</i>	<i>deleted</i>	
(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;	<i>deleted</i>	<i>deleted</i>	
(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;	<i>deleted</i>	<i>deleted</i>	
(k) misuses a data protection seal or mark in the meaning of Article 39;	<i>deleted</i>	<i>deleted</i>	

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;	<i>deleted</i>	<i>deleted</i>	
(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);	<i>deleted</i>	<i>deleted</i>	
(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);	<i>deleted</i>	<i>deleted</i>	
(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.	<i>deleted</i>	<i>deleted</i>	

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.	7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the absolute amounts of the administrative fines referred to in paragraphs 4, 5 and 6 paragraph 2a , taking into account the criteria and factors referred to in paragraph paragraphs 2 and 2c .	deleted	<i>Tentative agreement in trilogue:</i> <i>deleted</i>
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		<i>Article 79a</i>	
		<i>Administrative fines</i>	
		<i>1. The supervisory authority may impose a fine that shall not exceed 250 000 EUR, or in case of an undertaking 0,5 % of its total worldwide annual turnover of the preceding financial year, on a controller who, intentionally or negligently:</i>	<i>To be rediscussed at a later stage</i>
		<i>(a) does not respond within the period referred to in Article 12(2) to requests of the data subject;</i>	<i>To be rediscussed at a later stage</i>
		<i>(b) charges a fee in violation of the first sentence of paragraph 4 of Article 12.</i>	<i>To be rediscussed at a later stage</i>
		<i>2. The supervisory authority may impose a fine that shall not exceed 500 000 EUR, or in case of an undertaking 1% of its total worldwide annual turnover of the preceding financial year, on a controller or processor who, intentionally or negligently:</i>	<i>To be rediscussed at a later stage</i>

		<i>(a) does not provide the information, or provides incomplete information, or does not provide the information [timely or] in a [sufficiently] transparent manner, to the data subject pursuant to Articles 12(3), 14 and 14a;</i>	<i>To be rediscussed at a later stage</i>
		<i>(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16;</i>	<i>To be rediscussed at a later stage</i>
		<i>(c) does not erase personal data in violation of the right to erasure and 'to be forgotten' pursuant to Article 17(1)(a), 17(1)(b), 17(1)(d) or 17(1)(e)</i>	<i>To be rediscussed at a later stage</i>
		<i>(d)</i> <i>(da) processes personal data in violation of the right to restriction of processing pursuant to Article 17a or does not inform the data subject before the restriction of processing is lifted pursuant to Article 17a(4);</i>	<i>To be rediscussed at a later stage</i>

		<i>(db) does not communicate any rectification, erasure or restriction of processing to each recipient to whom the controller has disclosed personal data, in violation of Article 17b;</i>	<i>To be rediscussed at a later stage</i>
		<i>(dc) does not provide the data subject's personal data concerning him or her in violation of Article 18;</i>	<i>To be rediscussed at a later stage</i>
		<i>(dd) processes personal data after the objection of the data subject pursuant to Article 19(1) and does not demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims;</i>	<i>To be rediscussed at a later stage</i>
		<i>(de) does not provide the data subject with information concerning the right to object processing for direct marketing purposes pursuant to Article 19(2) or continues to process data for direct marketing purposes after the objection of the data subject in violation of Article 19(2a);</i>	<i>To be rediscussed at a later stage</i>

		<i>(e) does not or not sufficiently determine the respective responsibilities with joint controllers pursuant to Article 24;</i>	<i>To be rediscussed at a later stage</i>
		<i>(f) does not or not sufficiently maintain the documentation pursuant to Article 28 and Article 31(4).</i>	<i>To be rediscussed at a later stage</i>
		<i>3. The supervisory authority may impose a fine that shall not exceed 1 000 000 EUR or, in case of an undertaking, 2 % of its total worldwide annual turnover of the preceding financial year, on a controller or processor who, intentionally or negligently:</i>	<i>To be rediscussed at a later stage</i>
		<i>(a) processes personal data without a legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7, 8 and 9;</i>	<i>To be rediscussed at a later stage</i>

		(b) (e) <i>(d) does not comply with the conditions in relation to automated individual decision making, including profiling pursuant to Article 20;</i>	<i>To be rediscussed at a later stage</i>
		<i>(da) does not implement appropriate measures or is not able to demonstrate compliance pursuant to Articles 22 and 3;</i>	<i>To be rediscussed at a later stage</i>
		<i>(db) does not designate a representative in violation of Article 2;</i>	<i>To be rediscussed at a later stage</i>
		<i>(dc) processes or instructs the processing of personal data in violation of Articles 26;</i>	<i>To be rediscussed at a later stage</i>
		<i>(dd) does not alert on or notify a personal data breach or does not [timely or] completely notify the data breach to the supervisory authority or to the data subject in violation of Articles 31 and 32;</i>	<i>To be rediscussed at a later stage</i>

		<i>(de) does not carry out a data protection impact assessment in violation of Article 33 or processes personal data without prior consultation of the supervisory authority in violation of Article 34(2);</i>	<i>To be rediscussed at a later stage</i>
		<i>(e)</i>	
		<i>(f) misuses a data protection seal or mark in the meaning of Article 39 or does not comply with the conditions and procedures laid down in Articles 38a and 39a;</i>	<i>To be rediscussed at a later stage</i>
		<i>(g) carries out or instructs a data transfer to a recipient in a third country or an international organisation in violation of Articles 41 to 44;</i>	<i>To be rediscussed at a later stage</i>
		<i>(h) does not comply with an order or a temporary or definite limitation on processing or the suspension of data flows by the supervisory authority pursuant to Article 53 (1b) or does not provide access in violation of Article 53(1);</i>	<i>To be rediscussed at a later stage</i>

		<p><i>3a. If a controller or processor intentionally or negligently violates several provisions of this Regulation listed in paragraphs 1, 2 or 3, the total amount of the fine may not exceed the amount specified for the gravest violation.</i></p>	<p><i>To be rediscussed at a later stage</i></p>
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		<i>Article 79b</i>	<i>Article 79b</i>
		<i>Penalties</i>	<i>Penalties</i>
		<p>1. For infringements of this Regulation in particular for infringements which are not subject to administrative fines pursuant to Article 79a Member States shall lay down the rules on penalties applicable to such infringements and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.</p>	<p><i>Tentative agreement in trilogue</i></p> <p>1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation in particular for infringements which are not subject to administrative fines pursuant to Article [79a], and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.</p>
		<p>2.</p> <p>3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.</p>	<p><i>Tentative agreement in trilogue</i></p> <p>3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.</p>