

Council of the European Union

Interinstitutional File:

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2012/0011 (COD)

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(OR. en)

Brussels, 3 November 2015

NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	10391/15
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)
	- Chapters X and XI

Introduction

1. On 15th June 2015, the Council agreed on a General Approach (9565/15) on the proposal for a General Data Protection Regulation, thereby giving the Presidency a negotiating mandate to enter into trilogues with Parliament. The Presidency recalls the objective of reaching a conclusion on this reform by the end of 2015, in accordance with the conclusions of the European Council of 25/26th June 2015.

- 2. With a view to preparing the next trilogue, the Presidency invites delegations to discuss:
 - Chapter X Delegated and implementing acts
 - Chapter XI Final provisions
 - Relevant recitals: (129), (130), (131), (132), (133), (134), (135), (136), (137), (138), (139)

3. With a view to finding compromise agreements with the European Parliament, the Presidency proposes compromise suggestions in the 4th column of the document in annex. The Presidency proposes to discuss this 4th column on the basis of the different questions and suggestions listed below.

4. The Presidency wishes to indicate that recitals, in particular recitals (129), (130) and (131) are to be adapted in accordance with the changes made in the relevant articles in other parts of the Regulation.

5. 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 <u>first category</u> (points 6 and 7) relates either to provisions on which the co-legislators 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 <u>third category</u> (point 8) relates to provisions on which the Presidency proposes modifications with a view to clarifying the Council's General Approach or compromise suggestions, taking into account the position of the European Parliament. Delegations are invited to share their views on these issues.

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

- Article 86(1), (4)
- Article 87(1), (2)
- Article 88 as a whole
- Article 89(1)
- Article 91

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

- 7. The Presidency suggests to maintain the Council's General Approach as regards:
- Recital (129), (130), (131), (132), (133), (134), (135), (136), (137), (138)
- Article 85b EP
- Article 86(2), (3), (5)
- Article 87(3)
- Article 89(2a) EP
- Article 89a (new) EP
- Article 90 (as modified following the trilogue on Chapter V)

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 articles, they may do so under point 8.

8. With regard to the following provisions, the Presidency proposes modifications with a view to clarifying the Council's General Approach or compromise suggestions taking into account the position of the European Parliament:

Recital (139)

- The Presidency considers that recital (139) may be accepted in a spirit of compromise, as it recalls the articulation of the right to the protection of personal data with other rights enshrined in the EU Charter of Fundamental Rights.

Article 89 - Relationship to and amendment of Directive 2002/58/EC

- As regards Article 89(2), the European Parliament further develops the Commission's proposal that not only Article 1(2) of the ePrivacy Directive, but also Article 4 on security of processing and data breaches and Article 15 on the application of certain provisions of Directive 95/46 shall be deleted. The reference to Article 1(2) in particular clarifies that the ePrivacy Directive is *lex specialis*. The European Parliament also proposes that the ePrivacy Directive be aligned to this Regulation without delay. Without prejudice to the Commission's right to initiative, and considering the necessity for consistent rules across increasingly convergent digital sectors, the Presidency invites delegations to comment on these points.

Article 89a – Relationship to previously concluded Agreements

The European Parliament does not foresee such a grandfather clause with respect to
international agreements concluded by Member States. Recalling the principle of primacy of EU
law, which requires that international agreements are always in conformity with EU legislation,
the Presidency invites delegations to indicate their flexibility with regard to this Article.

9. Finally, the Presidency invites the delegations to raise any other issue related to Chapters X and XI.

COM (2012)0011	EP Position / First Reading	Council General Approach (15/06/2015)	Comments / compromise suggestions
(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of	(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated	(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated	(129) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of
the European Union should be delegated to the Commission. In particular, delegated acts should be adopted in respect of lawfulness of processing; specifying the criteria and conditions in relation to the consent of a child; processing of special categories of data; specifying the criteria and conditions for manifestly excessive requests and fees for exercising the rights of the data subject; criteria and requirements for the information to	to the Commission. In particular, delegated acts should be adopted in respect of lawfulness of processing; specifying the criteria and conditions in relation to the consent of a child; processing of special categories of data; specifying the criteria and conditions for manifestly excessive requests and fees for exercising the rights of the data subject; criteria and requirements for the information to	to the Commission. In particular, delegated acts should be adopted in respect of criteria and requirements for certification mechanisms; It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.	the Treaty on the Functioning of the European Union should be delegated to the Commission. In particular, delegated acts should be adopted in respect of criteria and requirements for certification mechanisms. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a

the data subject and in relation to	the data subject and in relation to the	simultaneous, timely and
the right of access; the right to be	right of access conditions of icon-	appropriate transmission of
forgotten and to erasure; measures	based mode for provision of	relevant documents to the
based on profiling; criteria and	information; the right to be forgotten	European Parliament and
requirements in relation to the	and to erasure; measures based on	Council.
responsibility of the controller and	profiling; criteria and requirements	
to data protection by design and	in relation to the responsibility of the	
by default; a processor; criteria	controller and to data protection by	
and requirements for the	design and by default; a processor;	
documentation and the security of	criteria and requirements for the	
processing; criteria and	documentation and the security of	
requirements for establishing a	processing; criteria and requirements	
personal data breach and for its	for establishing a personal data	
notification to the supervisory	breach and for its notification to the	
authority, and on the	supervisory authority, and on the	
circumstances where a personal	circumstances where a personal data	
data breach is likely to adversely	breach is likely to adversely affect	
affect the data subject; the criteria	the data subject; the criteria and	
and conditions for processing	conditions for processing operations	
operations requiring a data	requiring a data protection impact	
protection impact assessment; the	assessment; the criteria and	
criteria and requirements for	requirements for determining a high	
determining a high degree of	degree of specific risks which	
specific risks which require prior	require prior	
consultation; designation and		
tasks of the data protection		
officer; codes of conduct; criteria		
and		

requirements for certification	consultation; designation and tasks	
mechanisms; criteria and	of the data protection officer;	
requirements for transfers by way	declaring that codes of conduct are	
of binding corporate rules; transfer	in line with this Regulation; criteria	
derogations; administrative	and requirements for certification	
sanctions; processing for health	mechanisms; the adequate level of	
purposes; processing in the	protection afforded by a third	
employment context and	country or an international	
processing for historical, statistical	organisation; criteria and	
and scientific research purposes. It	requirements for transfers by way of	
is of particular importance that the	binding corporate rules; transfer	
Commission carry out appropriate	derogations; administrative	
consultations during its	sanctions; processing for health	
preparatory work, including at	purposes; and processing in the	
expert level. The Commission,	employment context and processing	
when preparing and drawing-up	for historical, statistical and	
delegated acts, should ensure a	scientific research purposes. It is of	
simultaneous, timely and	particular importance that the	
appropriate transmission of	Commission carry out appropriate	
relevant documents to the	consultations during its preparatory	
European Parliament and Council.	work, including at expert level, in	
1	particular with the European Data	
	Protection Board. The Commission,	
	when preparing and drawing-up	
	delegated acts, should ensure a	
	simultaneous, timely and appropriate	
	transmission of relevant documents	
	to the European Parliament and to	
	the Council.	

(130) In order to ensure uniform (130) In order to ensure uniform (130) In order to ensure uniform conditions for the implementation conditions for the implementation of conditions for the implementation of of this Regulation, implementing this Regulation, implementing this Regulation, implementing powers powers should be conferred on the powers should be conferred on the should be conferred on the Commission for: specifying Commission for: specifying standard Commission for: standard contractual standard forms in relation to the forms for specific methods to obtain clauses between controllers and verifiable consent in relation to the processing of personal data of a processors and between processors, child; standard procedures and processing of personal data of a codes of conduct; technical standards forms for exercising the rights of child; standard procedures and forms and mechanisms for certification: the data subjects; standard forms for for exercising the rights of the adequate level of protection afforded the information to the data communication to the data subjects by a third country or a territory or a subject; standard forms and on the exercise of their rights; processing sector within that third procedures in relation to the right standard forms for the information to country or an international of access; the right to data the data subject: standard forms and organisation; adopt standard data portability; standard forms in procedures in relation to the right of protection clauses; formats and relation to the responsibility of the access including for communicating procedures for the exchange of controller to data protection by the personal data to the data subject; information between controllers, design and by default and to the the right to data portability; standard processors and supervisory authorities documentation; specific for binding corporate rules; mutual forms in relation to the responsibility requirements for the security of of the controller to data protection assistance; the arrangements for the exchange of information by electronic processing; the standard format by design and by default and to the and the procedures for the documentation to be kept by the means between supervisory notification of a personal data controller and the processor; specific authorities, and between supervisory authorities and the European Data breach to the supervisory authority requirements for the security of and the communication of a processing; the standard format and Protection Board. Those powers personal data breach to the data the procedures form for the should be exercised in accordance subject; standards and procedures notification of a personal data breach with Regulation (EU) No 182/2011 of for a data protection impact the European Parliament and of the to the Council of 16 February 2011 laying assessment; forms and procedures for prior authorisation and prior down the rules and general consultation: technical standards

(130) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission for: standard contractual clauses between controllers and processors and between processors, codes of conduct: technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; adopt standard data protection clauses; formats and procedures for the exchange of information between controllers, processors and supervisory authorities for binding corporate rules; mutual assistance; the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of

and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers45. In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.	supervisory authority and the communication of a personal data breach to the data subject for documenting a personal data breach; standards and procedures for a data protection impact assessment; forms and procedures for prior authorisation and prior consultation; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism and information to the supervisory authority. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the	principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers 1. In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.	the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers2. In this context, the Commission should consider specific measures for micro, small and medium-sized enterprises.
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Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

 ² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

Counci	11 of 16 February 2011 laying	
	ne rules and general	
princip	les concerning mechanisms	
for con	trol by the Member States of	
the Cor	nmission's exercise of	
impler	enting powers In this	
	, the Commission should	
	er specific measures for	
	small and medium-sized	
enterpr		
1		
1 Regu	lation (EU) No 182/2011 of	
	opean Parliament and of the	
	l of 16 February 2011 laying	
	ne rules and general	
	les concerning mechanisms	
	trol by the Member States of	
	nmission's exercise of	
	enting powers (OJ L 55,	
-	11, p. 13).	
28.2.20	11, p. 1 <i>3)</i> .	

		-	
(131)The examination procedure	(131) The examination procedure	(131) The examination procedure	(131) The examination procedure
should be used for the adoption of	should be used for the adoption of	should be used for the adoption of	should be used for the adoption of
specifying standard forms in	specifying standard forms in relation	implementing acts on standard	implementing acts on standard
relation to the consent of a child;	to the: for specific methods to obtain	contractual clauses between	contractual clauses between
standard procedures and forms for	verifiable consent in relation to the	controllers and processors and	controllers and processors and
exercising the rights of data	processing of personal data of a	between processors; codes of	between processors; codes of
subjects; standard forms for the	child; standard procedures and forms	conduct; technical standards and	conduct; technical standards and
information to the data subject;	for exercising the the	mechanisms for certification; the	mechanisms for certification; the
standard forms and procedures in	communication to the data subjects	adequate level of protection afforded	adequate level of protection
relation to the right of access;, the	on the exercise of their rights of data	by a third country or a territory or a	afforded by a third country or a
right to data portability; standard	subjects; standard forms for the	processing sector within that third	territory or a processing sector
forms in relation to the	information to the data subject;	country or an international	within that third country or an
responsibility of the controller to	standard forms and procedures in	organisation; adopt standard	international organisation; adopt
data protection by design and by	relation to the right of access	protection clauses; formats and	standard protection clauses;
default and to the documentation;	including for communicating the	procedures for the exchange of	formats and procedures for the
specific requirements for the	personal data to the data subject; the	information by electronic means	exchange of information by
security of processing; the	right to data portability; standard	between controllers, processors and	electronic means between
standard format and the	forms in relation to the responsibility	supervisory authorities for binding	controllers, processors and
procedures for the notification of a	of documentation to be kept by the	corporate rules; mutual assistance; the	supervisory authorities for
personal data breach to the	controller to data protection by	arrangements for the exchange of	binding corporate rules; mutual
supervisory authority and the	design and by default and to the	information by electronic means	assistance; the arrangements for
communication of a personal data	documentation and the processor;	between supervisory authorities, and	the exchange of information by
breach to the data subject;	specific requirements for the security	between supervisory authorities and	electronic means between
standards and procedures for a	of processing; the standard format	the European Data Protection Board	supervisory authorities, and
data protection impact assessment;	and the procedures for the	given that those acts are of general	between supervisory authorities
forms and procedures for prior	notification of a personal data	scope.	and the European Data Protection
authorisation and prior			Board given that those acts are of
consultation; technical standards			general scope.
and mechanisms for certification;			

the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an international organisation; disclosures not authorized by Union law; mutual assistance; joint operations; decisions under the consistency mechanism, given that those acts are of general scope.	breach to the supervisory authority and the communication of for documenting a personal data breach to the data subject; standards and procedures for a data protection impact assessment; forms and procedures for prior authorisation and prior consultation; technical standards and mechanisms for certification; the adequate level of protection afforded by a third country or a territory or a processing sector within that third country or an	
	sector within that third country or an international organisation; disclosures not authorized by Union	
	law; mutual assistance; joint operations; decisions under the consistency mechanism, and information to the supervisory	
	authority, given that those acts are of general scope.	

(132) The Commission should	deleted	(132) The Commission should adopt	(132) The Commission should
adopt immediately applicable		immediately applicable implementing	adopt immediately applicable
implementing acts where, in duly		acts where, in duly justified cases	implementing acts where, in duly
justified cases relating to a third		relating to a third country or a	justified cases relating to a third
country or a territory or a		territory or a processing sector within	country or a territory or a
processing sector within that third		that third country or an international	processing sector within that third
country or an international		organisation which does not ensure an	country or an international
organisation which does not		adequate level of protection and	organisation which does not
ensure an adequate level of		relating to matters communicated by	ensure an adequate level of
protection and relating to matters		supervisory authorities under the	protection and relating to matters
communicated by supervisory		consistency mechanism, imperative	communicated by supervisory
authorities under the consistency		grounds of urgency so require.	authorities under the consistency
mechanism, imperative grounds of			mechanism, imperative grounds
urgency so require.			of urgency so require.

(133) Since the objectives of this	(133) Since the objectives of this	(133) Since the objectives of this	(133) Since the objectives of this
Regulation, namely to ensure an	Regulation, namely to ensure an	Regulation, namely to ensure an	Regulation, namely to ensure an
equivalent level of protection of	equivalent level of protection of	equivalent level of protection of	equivalent level of protection of
individuals and the free flow of	individuals and the free flow of data	individuals and the free flow of data	individuals and the free flow of
data throughout the Union, cannot	throughout the Union, cannot be	throughout the Union, cannot be	data throughout the Union,
be sufficiently achieved by the	sufficiently achieved by the Member	sufficiently achieved by the Member	cannot be sufficiently achieved
Member States and can therefore,	States and but can therefore rather,	States and can therefore, by reason of	by the Member States and can
by reason of the scale or effects of	by reason of the scale or effects of	the scale or effects of the action, be	therefore, by reason of the scale
the action, be better achieved at	the action, be better achieved at	better achieved at Union level, the	or effects of the action, be better
Union level, the Union may adopt	Union level, the Union may adopt	Union may adopt measures, in	achieved at Union level, the
measures, in accordance with the	measures, in accordance with the	accordance with the principle of	Union may adopt measures, in
principle of subsidiarity as set out	principle of subsidiarity as set out in	subsidiarity as set out in Article 5 of	accordance with the principle of
in Article 5 of the Treaty on	Article 5 of the Treaty on European	the Treaty on European Union. In	subsidiarity as set out in Article 5
European Union. In accordance	Union. In accordance with the	accordance with the principle of	of the Treaty on European Union.
with the principle of	principle of proportionality as set out	proportionality as set out in that	In accordance with the principle
proportionality as set out in that	in that Article, this Regulation does	Article, this Regulation does not go	of proportionality as set out in
		, e e	1 1 1
Article, this Regulation does not	not go beyond what is necessary in	beyond what is necessary in order to	that Article, this Regulation does
go beyond what is necessary in	order to achieve that objective.	achieve that objective.	not go beyond what is necessary
order to achieve that objective.			in order to achieve that objective.

	Amendment 95		
(134) Directive 95/46/EC should	(134) Directive 95/46/EC should be	(134) Directive 95/46/EC should be	(134) Directive 95/46/EC should
be repealed by this Regulation.	repealed by this Regulation.	repealed by this Regulation.	be repealed by this Regulation.
However, Commission decisions	However, Commission decisions	Processing already under way on the	Processing already under way on
adopted and authorisations by	adopted and authorisations by	date of the entry into force of this	the date of the entry into force of
supervisory authorities based on	supervisory authorities based on	Regulation should be brought into	this Regulation should be brought
Directive 95/46/EC should remain	Directive 95/46/EC should remain in	conformity with this Regulation	into conformity with this
in force.	force. Commission decisions and	within the period of two years after	Regulation within the period of
	authorisations by supervisory	which this Regulation enters into	two years after which this
	authorities relating to transfers of	force. However, Commission	Regulation enters into force.
	personal data to third countries	decisions adopted and authorisations	However, where such processing
	pursuant to Article 41(8) should	by supervisory authorities based on	is in compliance with Directive
	remain in force for a transition	where such processing is in	95/46/EC, the requirements of
	period of five years after the entry	compliance with Directive 95/46/EC,	this Regulation concerning the
	into force of this Regulation unless	the requirements of this Regulation	carrying out of data protection
	amended, replaced or repealed by	concerning the carrying out of data	impact assessments and the prior
	the Commission before the end of	protection impact assessments and	consultation of the supervisory
	this period.	the prior consultation of the	authority should not apply to the
		supervisory authority should not	processing operations already
		apply to the processing operations	under way prior to the entry into
		already under way prior to the entry	force of this Regulation, given
		into force of this Regulation, given	that these requirements, by their
		that these requirements, by their very	very nature, are to be met prior to
		nature, are to be met prior to the	the processing. Where such
		processing. Where such processing	processing is in compliance with
		is in compliance with Directive	Directive 95/46/EC, it is also not
		95/46/EC, it is also not necessary for	necessary for the data subject to
		the data subject to give his or her	give his or her consent again so
		consent again so as to allow the	as to allow the controller to
		controller to continue such	continue such processing after the
		processing after the data of	data of application of this
		application of this Regulation.	Regulation. Commission

(135) This Regulation should apply to all matters concerning the protection of fundamental rights and freedom vis-à-vis the processing of personal data, which are not subject to specific obligations with the same objective set out in Directive 2002/58/EC, including the obligations on the controller and the rights of individuals. In order to clarify the relationship between this Regulation and Directive 2002/58/EC, the latter Directive should be amended accordingly.	(135) This Regulation should apply to all matters concerning the protection of fundamental rights and freedom vis-à-vis the processing of personal data, which are not subject to specific obligations with the same objective set out in Directive 2002/58/EC of the European Parliament and of the Council ¹ , including the obligations on the controller and the rights of individuals. In order to clarify the relationship between this Regulation and Directive 2002/58/EC, the latter Directive should be amended accordingly. ¹ Directive 2202/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201,	Commission decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC remain in force until amended, replaced or repealed should remain in force. (135) This Regulation should apply to all matters concerning the protection of fundamental rights and freedom vis-à-vis the processing of personal data, which are not subject to specific obligations with the same objective set out in Directive 2002/58/EC, including the obligations on the controller and the rights of individuals. In order to clarify the relationship between this Regulation and Directive 2002/58/EC, the latter Directive should be amended accordingly. Once this Regulation is adopted, Directive 2002/58/EC should be reviewed in particular in order to ensure consistency with this Regulation.	decisions adopted and authorisations by supervisory authorities based on Directive 95/46/EC remain in force until amended, replaced or repealed. (135) This Regulation should apply to all matters concerning the protection of fundamental rights and freedom vis-à-vis the processing of personal data, which are not subject to specific obligations with the same objective set out in Directive 2002/58/EC, including the obligations on the controller and the rights of individuals. In order to clarify the relationship between this Regulation and Directive 2002/58/EC, the latter Directive should be amended accordingly. Once this Regulation is adopted, Directive 2002/58/EC should be reviewed in particular in order to ensure consistency with this Regulation.
	<i>communications) (OJ L 201, 31.07.2002, P.37)</i>		

(136) As regards Iceland and	(136) As regards Iceland and	deleted	deleted
Norway, this Regulation	Norway, this Regulation constitutes		
constitutes a development of	a development of provisions of the		
-			
provisions of the Schengen acquis	Schengen <i>acquis</i> to the extent that it		
to the extent that it applies to the	applies to the processing of personal		
processing of personal data by	data by authorities involved in the		
authorities involved in the	implementation of that <i>acquis</i> ,		
implementation of that acquis, as	within the meaning of as provided		
provided for by the Agreement	for by the Agreement concluded by		
concluded by the Council of the	the Council of the European Union		
European Union and the Republic	and the Republic of Iceland and the		
of Iceland and the Kingdom of	Kingdom of Norway concerning the		
Norway concerning the association	latters' association of those two		
of those two States with the	States with the implementation,		
implementation, application and	application and development of the		
development of the Schengen	Schengen acquis ¹ .		
acquis ⁴⁶ .			
	¹ OJ L 176, 10.7.1999, p. 36.		
⁴⁶ OJ L 176, 10.7.1999, p. 36.	_		

(137) As regards Switzerland, this	(137) As regards Switzerland, this	deleted	deleted
Regulation constitutes a	Regulation constitutes a		
development of provisions of the	development of provisions of the		
1 1	1 1		
Schengen acquis to the extent that	Schengen <i>acquis</i> to the extent that it		
it applies to the processing of	applies to the processing of personal		
personal data by authorities	data by authorities involved in the		
involved in the implementation of	implementation of that <i>acquis</i> ,		
that acquis, as provided for by the	within the meaning of as provided		
Agreement between the European	for by the Agreement between the		
Union, the European Community	European Union, the European		
and the Swiss Confederation	Community and the Swiss		
concerning the association of the	Confederation concerning on the		
Swiss Confederation with the	association of the Swiss		
implementation, application and	Confederation's association with		
development of the Schengen	the implementation, application and		
acquis ⁴⁷ .	development of the Schengen		
1	acquis ¹ .		
⁴⁷ OJ L 53, 27.2.2008, p. 52	1		
	^{<i>I</i>} OJ L 53, 27.2.2008, p. 52		

(138) As regards Liechtenstein,	(138) As regards Liechtenstein, this	deleted	deleted
this Regulation constitutes a	Regulation constitutes a		
development of provisions of the	development of provisions of the		
Schengen acquis to the extent that	Schengen <i>acquis</i> to the extent that it		
it applies to the processing of	applies to the processing of personal		
11 1 0			
personal data by authorities	data by authorities involved in the		
involved in the implementation of	implementation of that <i>acquis</i> ,		
that acquis, as provided for by the	within the meaning of as provided		
Protocol between the European	for by the Protocol between the		
Union, the European Community,	European Union, the European		
the Swiss Confederation and the	Community, the Swiss		
Principality of Liechtenstein on	Confederation and the Principality		
the accession of the Principality of	of Liechtenstein on the accession of		
Liechtenstein to the Agreement	the Principality of Liechtenstein to		
between the European Union, the	the Agreement between the		
European Community and the	European Union, the European		
Swiss Confederation on the Swiss	Community and the Swiss		
Confederation's association with	Confederation on the Swiss		
the implementation, application	Confederation's association with the		
and development of the Schengen	implementation, application and		
acquis ⁴⁸ .	development of the Schengen		
	acquis ¹ .		
⁴⁸ OJ L 160 of 18.6.2011, p. 19	···· 1 ·····		
00 2 100 01 10:0.2011, p. 19	¹ OJ L 160 of 18.6.2011, p. 19		

(139) In view of the fact that, as	(139) In view of the fact that, as	deleted	(139) In view of the fact that, as
underlined by the Court of Justice	underlined by the Court of Justice of		underlined by the Court of Justice
of the European Union, the right to	the European Union, the right to the		of the European Union, the right
the protection of personal data is	protection of personal data is not an		to the protection of personal data
not an absolute right, but must be	absolute right, but must be		is not an absolute right, but must
considered in relation to its	considered in relation to its function		be considered in relation to its
function in society and be	in society and be balanced with other		function in society and be
balanced with other fundamental	fundamental rights, in accordance		balanced with other fundamental
rights, in accordance with the	with the principle of proportionality,		rights, in accordance with the
principle of proportionality, this	this Regulation respects all		principle of proportionality, this
Regulation respects all	fundamental rights and observes the		Regulation respects all
fundamental rights and observes	principles recognised in the Charter		fundamental rights and observes
the principles recognised in the	of Fundamental Rights of the		the principles recognised in the
Charter of Fundamental Rights of	European Union as enshrined in the		Charter as enshrined in the
the European Union as enshrined	Treaties, notably the right to respect		Treaties, notably the right to
in the Treaties, notably the right to	for private and family life, home and		respect for private and family life,
respect for private and family life,	communications, the right to the		home and communications, the
home and communications, the	protection of personal data, the		right to the protection of personal
right to the protection of personal	freedom of thought, conscience and		data, the freedom of thought,
data, the freedom of thought,	religion, the freedom of expression		conscience and religion, the
conscience and religion, the	and information, the freedom to		freedom of expression and
freedom of expression and	conduct a business, the right to an		information, the freedom to
information, the freedom to	effective remedy and to a fair trial as		conduct a business, the right to an
conduct a business, the right to an	well as cultural, religious and		effective remedy and to a fair trial
effective remedy and to a fair trial	linguistic diversity.business, the		as well as cultural, religious and
as well as cultural, religious and	right to an effective remedy and to a		linguistic diversity.
linguistic diversity.business, the	fair trial as well as cultural, religious		
right to an effective remedy and to	and linguistic diversity		
a fair trial as well as cultural,			
religious and linguistic diversity.			

CHAPTER X DELEGATED ACTS AND IMPLEMENTING ACTS	CHAPTER X DELEGATED ACTS AND IMPLEMENTING ACTS	DELI ACT IMPLE	PTER X EGATED IS AND MENTING ACTS	
	Article 85b (new)			
	Standard Forms			
	 The Commission may, taking in the specific features and necessitie various sectors and data processin situations, lay down standard form (a) specific methods to obtain verify consent referred to in Article 8(1), (b) the communication referred to 12(2), including the electronic form (c) providing the information reference paragraphs 1 to 3 of Article 14, (d) requesting and granting accesss information referred to in Article 14, 	es of g is for: fiable in Article mat, rred to in s to the 15(1),		
	including for communicating the p data to the data subject, (e) documentation referred to in po of Article 28,			

te	f) breach notifications pursuant to Article 31
d	o the supervisory authority and the
(§	locumentation referred to in Article 31(4),
3	g) prior consultations referred to in Article
a	4, and for informing the supervisory
2	suthorities pursuant to Article 34(6).
a	c. In doing so, the Commission shall take the
a	appropriate measures for micro, small and
a	medium-sized enterprises.
ii	Those implementing acts shall be adopted n accordance with the examination procedure referred to in Article 87(2).

Article 86	Article 86	Article 86	Article 86
Exercise of the delegation	Exercise of the delegation	Exercise of the delegation	Exercise of the delegation
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated aets is conferred on the Commission subject to the conditions laid down in this Article.
	Amendment 200		
2. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 336), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), Article 81(3), Article 82(3) and Article 83(3) shall be conferred on the	2. The delegation of power power to adopt delegated acts referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 13a(5), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 336), Article 34(8), Article 35(11), Article 37(2), Article 38(4), Article 39(2), Article 41(3), Article 41(5), Article 43(3), Article 44(7), Article	2. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 14(7), Article 20(6), Article 22(4), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 30(3), Article 31(5), Article 32(5), Article 336), Article 32(5), Article 35(11), Article 34(8), Article 35(11), Article 37(2), Article 39 $a(27)$, Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3)-shall be conferred on the	2. The delegation of power referred to in Article 39a(7) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

Commission for an indeterminate period of time from the date of entry into force of this Regulation.	79(6) <i>Article</i> 79(7) , Article 81(3), <i>and</i> Article 82(3) and Article 83(3) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.	Commission for an indeterminate period of time from the date of entry into force of this Regulation.	
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	Amendment 201		
3. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date	3. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 13a(5), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 38(4), Article 39(2), Article 41(3), Article 41(5), Article 43(3), Article 44(7), Article 79(6)Article 79(7), Article 81(3), and Article 82(3) and Article 83(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the	3. The delegation of power referred to in Article $6(5)$, Article $8(3)$, Article $9(3)$, Article $12(5)$, Article $14(7)$, Article $15(3)$, Article $17(9)$, Article $20(6)$, Article $22(4)$, Article $23(3)$, Article $22(4)$, Article $31(5)$, Article $30(3)$, Article $31(5)$, Article $30(3)$, Article $31(5)$, Article $30(3)$, Article $33(6)$, Article $34(8)$, Article $35(11)$, Article $34(8)$, Article $35(11)$, Article $34(8)$, Article $43(3)$, Article $44(7)$, Article $79(6)$, Article $81(3)$, Article $82(3)$ and Article 83(3)-may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official</i> <i>Journal of the European</i> <i>Union</i> or at a later	3. The delegation of power referred to in Article 39 <i>a</i> (7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

specified therein. It shall not affect the validity of any delegated acts already in force.	decision in the <i>Official Journal of the</i> <i>European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	date specified therein. It shall not affect the validity of any delegated acts already in force.	
4. As soon as it adopts a delegated	4. As soon as it adopts a delegated act,	4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	4. As soon as it adopts a delegated act,
act, the Commission shall notify it	the Commission shall notify it		the Commission shall notify it
simultaneously to the European	simultaneously to the European		simultaneously to the European
Parliament and to the Council.	Parliament and to the Council.		Parliament and to the Council.

Amendment 202		
5. A delegated act adopted pursuant to Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 23(3), Article 30(3), Article 31(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 81(3), Article 82(3) and Article 83(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the	5. A delegated act adopted pursuant to Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39 <i>a</i> (27), Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European	5. A delegated act adopted pursuant to Article 39a(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council. twosix months of notification of that ac to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and th Council have both informed the Commission that they will not object. That period shall be extended by two six months at the initiative of the European Parliament or the Council.	expiry of that period, the European Parliament and
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Article 87	Article 87	Article 87	Article 87
Committee procedure	Committee procedure	Committee procedure	Committee procedure
1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
	Amendment 203		
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.	deleted	3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.	3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS
Article 88	Article 88	Article 88	Article 88
Repeal of Directive 95/46/EC			
1. Directive 95/46/EC is repealed.			
2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.	2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.	2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.	2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.

Article 89	Article 89	Article 89	Article 89
Relationship to and amendment of Directive 2002/58/EC			
1. This Regulation shall not impose additional obligations on natural or legal persons in relation to the processing of personal data in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.	1. This Regulation shall not impose additional obligations on natural or legal persons in relation to the processing of personal data in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.	1. This Regulation shall not impose additional obligations on natural or legal persons in relation to the processing of personal data in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.	1. This Regulation shall not impose additional obligations on natural or legal persons in relation to the processing of personal data in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.
	Amendment 204		
2. Article 1(2) of Directive 2002/58/EC shall be deleted.	2. ArticleArticles 1(2), 4 and 15 of Directive 2002/58/EC shall be deleted.	deleted	

Amendment 205	
2a. The Commission shall present, without delay and by the date referred to in Article 91(2) at the latest, a proposal for the revision of the legal framework for the processing of personal data and the protection of privacy in electronic communications, in order to align the law with this Regulation and ensure consistent and uniform legal provisions on the fundamental right to protection of personal data in the European Union.	

Amendment 206	
Article 89a (new)	
Relationship to and amendment of Regulation (EC) No 45/2001	
1. The rules set out in this Regulation shall apply to the processing of personal data by Union institutions, bodies, offices and agencies in relation to matters for which they are not subject to additional rules set out in Regulation (EC) No 45/2001.	
2. The Commission shall present, without delay and by the date specified in Article 91(2) at the latest, a proposal for the revision of the legal framework applicable to the processing of personal data by the Union institutions, bodies, offices and agencies.	

	Article 89a	Article 89a
	Relationship to previously concluded Agreements	Relationship to previously concluded Agreements
	International agreements involving the transfer of personal data to third countries or international organisations which were concluded by Member States prior to the entry into force of this Regulation, and which are in compliance with Directive 95/46/EC, shall remain in force until amended, replaced or revoked.	International agreements involving the transfer of personal data to third countries or international organisations which were concluded by Member States prior to the entry into force of this Regulation, and which are in compliance with Directive 95/46/EC, shall remain in force until amended, replaced or revoked.

Article 90	Article 90	Article 90	Article 90
Evaluation	Evaluation	Evaluation	Evaluation
The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, in particular taking account of developments in information technology and in the light of the state of progress in the information society. The reports shall be made public.	The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, in particular taking account of developments in information technology and in the light of the state of progress in the information/society. The reports shall be made public.	 The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. In the context of these evaluations the Commission shall examine, in particular, the application and functioning of the provisions of Chapter VII on Co- operation and Consistency. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter. The reports shall be made public. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, in particular taking account of developments in information technology and in the light of the state of progress in the 	 <i>Tentatively agreed on CHAP V</i> 1. The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. 2. In the context of these evaluations the Commission shall examine, in particular, the application and functioning of the provisions of: a) Chapter V on the transfer of personal data to third countries or international organisations with particular regard to decisions adopted pursuant to article 41, paragraph 3 and decisions adopted on the basis of Article 25, paragraph 6 of Directive 95/46/EC; b) Chapter VII on Co-operation and Consistency. 2a. For the purpose referred to in paragraphs 1 and 2, the Commission may request

/	information society. The reports shall be made public.	information from Member States and supervisory authorities.
		2b. In carrying out the evaluations and reviews referred to in paragraphs 1 and 2, the Commission shall take into account the positions a,d findings of the European Parliament, the Council as well as other relevant bodies or sources.
		3. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter. The reports shall be made public.
		4. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, in particular taking into account of developments in information technology and in the lightof the state of progress in the information
		society.

Article 91	Article 91	Article 91	Article 91
Entry into force and application	Entry into force and application	Entry into force and application	Entry into force and application
1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the</i> <i>European Union</i> .	1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the</i> <i>European Union</i> .	1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [<i>two years</i> from the date referred to in paragraph 1].	 2. It shall apply from [two years from the date referred to in paragraph 1]*. * OJ: insert the date: two years from the date of entry into force of this Regulation 	2. It shall apply from [<i>two years</i> from the date referred to in paragraph 1].	2. It shall apply from [two years from the date referred to in paragraph 1].
This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.
	Done at,	Done at Brussels	
	For the European Parliament	For the European Parliament	
	The President	The President	
	For the Council	For the Council	
	The President	The President	