



Council of the
European Union

Brussels, 13 November 2015
(OR. en)

13884/15

**Interinstitutional File:
2012/0011 (COD)**

LIMITE

**DATAPROTECT 194
JAI 843
MI 704
DIGIT 87
DAPIX 203
FREMP 254
COMIX 564
CODEC 1485**

NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	13395/15
No. Cion doc.:	5853/15
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) - Chapter I, Articles 6(3) and 21 - Presidency debriefing on the outcome of the trilogue on 11/12 November and preparation for trilogue

1. On 12th November 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 I on General Provisions, as well as Articles 6(3) and 21. 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 27th October 2015, and in the JHA Counsellors meetings of 5th November 2015.

As regards chapter I and Articles 6(3) and 21, tentative solutions could be found on a number of provisions. These are indicated in the 4th column. Delegations will note that the substance of the Council's General Approach could be maintained on a significant amount of issues. Still, on a certain number of 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.

2. In relation to Article 1(2a), which allows Member States to maintain or introduce more specific provisions to adapt the application of the rules of this Regulation with regard to the processing of personal data for compliance with Article 6(1)(c) and (e), the European Parliament understands the importance of this paragraph for Member States. For the European Parliament, this refers to a possibility for Member States to specify the conditions of processing based on these grounds in Article 6 and, as a consequence, the European Parliament insists on replacing the term “*adapt*” by “*further specify*” and delete the reference to the “*application of*” rules of the Regulation. The European Parliament could, in turn, accept to move Article 1(2a) to Article 6 but with the changes proposed. Delegations are invited to indicate their flexibility on possible rephrasing of the terms “*to adapt*” such as “*further specify*”, “*specify*” or “*particularise*”.

In Article 6(3), the co-legislators tentatively agreed on reformulating the chapeau using wording from the Charter: “*the basis for the processing referred to in points (c) and (e) of paragraph 1 must be laid down by*”, as indicated in the 4th column.

3. Concerning Article 2(2(b)), the European Parliament insisted on covering EU institutions, bodies, offices and agencies in this Regulation, linking this to the necessity of the voting rights of the European Data Protection Supervisor at the European Data Protection Board. The European Parliament could agree to a provision worded as follows: “*Without prejudice to Regulation 45/2001, this Regulation applies to the processing of personal data by the Union institutions, bodies, offices and agencies*” while adding a strong encouragement to the Commission to submit a proposal for amending Regulation 45/2001 to bring it in line with this Regulation in time with the entry into force of this Regulation. The Presidency considers that a provision stating that the Commission shall, if necessary, submit appropriate proposals with a view to amending Regulation 45/2001 accordingly, might be sufficient and invites comments from delegations on this point.

4. Concerning Article 2(2(d)), the co-legislators tentatively agreed on referring to a “*purely personal or household activity*”. In recital (15), wording would be completed as follows: “*personal and household activities could include social networking and on-line activity*” as indicated in the 4th column.
5. Concerning Article 2(2(e)), the co-legislators exchanged their views on their respective positions regarding the scope of the draft Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data. The European Parliament insisted that the “*safeguarding against and the prevention of threats to public security*” was too broad. At the same time, the European Parliament understands the concerns of Council but considers that they are already covered by the reference of prevention to criminal offences.
6. In relation to the definition of personal data in Article 4(1), the European Parliament can accept the Council’s General Approach while adding a reference to “single out” as an example in recital (23), as indicated in the 4th column. In relation to recital (23aa) on deceased persons, the co-legislators tentatively agreed to slightly reformulate the first sentence by referring to this Regulation instead of the principles of data protection, as indicated in the 4th column.
7. In the chapeau of Article 21(1), the European Parliament insists on referring only to “*the essence of the right to protection of personal data*” in addition to the safeguards mentioned in the Council’s General Approach. The Presidency invites delegations to indicate their flexibility in this regard, considering that this is reflecting Article 52(1) of the EU Charter of Fundamental Rights.
8. In Article 21(1), the co-legislators tentatively agreed to keep the references to national security in (aa) and to defence in (ab).
9. In Article 21(1(e)), the co-legislators tentatively agreed to keep the reference to “*even occasionally*” as in the Council’s General Approach, and refer to “*in the framework of*” as indicated in the 4th column.

10. In Article 21(2), the European Parliament insisted on the right for data subjects to be informed about the restriction. Since this is not acceptable for Council, the European Parliament offered to add the following wording: “*unless this* [information to data subjects] *is contrary to the purpose of the restriction*”. Delegations are invited to comment on this point.

11. 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
(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty lay down that everyone has the right to the protection of personal data concerning him or her.	(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty lay down that everyone has the right to the protection of personal data concerning him or her.	(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty lay down that everyone has the right to the protection of personal data concerning him or her.	(1) The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8(1) of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty lay down that everyone has the right to the protection of personal data concerning him or her.

<p>(2) The processing of personal data is designed to serve man; the principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.</p>	<p>(2) The processing of personal data is designed to serve man; the principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.</p>	<p>(2) The processing of personal data is designed to serve man; the principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.</p>	<p>(2) The principles and rules on the protection of individuals with regard to the processing of their personal data should, whatever the nationality or residence of natural persons, respect their fundamental rights and freedoms, notably their right to the protection of personal data. It should contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, the strengthening and the convergence of the economies within the internal market, and the well-being of individuals.</p>
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<p>(3) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the free flow of personal data between Member States.</p>	<p>(3) Directive 95/46/EC of the European Parliament and of the Council¹ of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the free flow of personal data between Member States.</p> <p>¹ <i>Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).</i></p>	<p>(3) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the free flow of personal data between Member States.</p>	<p>(3) Directive 95/46/EC of the European Parliament and of the Council seeks to harmonise the protection of fundamental rights and freedoms of natural persons in respect of processing activities and to guarantee the free flow of personal data between Member States.</p>
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		<p><i>(3a) The right to the protection of personal data is not an absolute right; it must be considered in relation to its function in society and be balanced with other fundamental rights, in accordance with the principle of proportionality. This Regulation respects all fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaties, notably the right to respect for private and family life, home and communications, the right to the protection of personal data, the freedom of thought, conscience and religion, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial as well as cultural, religious and linguistic diversity.</i></p>	<p>(3a) The right to the protection of personal data is not an absolute right; it must be considered in relation to its function in society and be balanced with other fundamental rights, in accordance with the principle of proportionality. This Regulation respects all fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaties, notably the right to respect for private and family life, home and communications, the right to the protection of personal data, the freedom of thought, conscience and religion, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial as well as cultural, religious and linguistic diversity.</p>
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<p>(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between economic and social, public and private actors across the Union increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.</p>	<p>(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between economic and social, public and private actors across the Union increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.</p>	<p>(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between economic and social, public and private actors, <i>including individuals and undertakings</i> across the Union <i>has</i> increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.</p>	<p>(4) The economic and social integration resulting from the functioning of the internal market has led to a substantial increase in cross-border flows. The exchange of data between public and private actors, including individuals and undertakings across the Union has increased. National authorities in the Member States are being called upon by Union law to co-operate and exchange personal data so as to be able to perform their duties or carry out tasks on behalf of an authority in another Member State.</p>
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<p>(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and collecting has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and requires to further facilitate the free flow of data within the Union and the transfer to third countries and international organisations, while ensuring a high level of the protection of personal data.</p>	<p>(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and collecting has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and requires to further facilitate the free flow of data within the Union and the transfer to third countries and international organisations, while ensuring a high level of the protection of personal data.</p>	<p>(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and collecting has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and requires to should further facilitate the free flow of data within the Union and the transfer to third countries and international organisations, while ensuring a high level of the protection of personal data.</p>	<p>(5) Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of data sharing and collecting has increased spectacularly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life, and should further facilitate the free flow of data within the Union and the transfer to third countries and international organisations, while ensuring a high level of the protection of personal data.</p>
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<p>(6) These developments require building a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance to create the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced.</p>	<p>(6) These developments require building a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance to create the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced.</p>	<p>(6) These developments require building a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance to of create creating the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced.</p>	<p>(6) These developments require a strong and more coherent data protection framework in the Union, backed by strong enforcement, given the importance of creating the trust that will allow the digital economy to develop across the internal market. Individuals should have control of their own personal data and legal and practical certainty for individuals, economic operators and public authorities should be reinforced.</p>
		<p><i>(6a) Where this Regulation provides for specifications or restrictions of its rules by Member State law, Member States may, as far as necessary for the coherence and for making the national provisions comprehensible to the persons to whom they apply, incorporate elements of the Regulation in their respective national law.</i></p>	<p>(6a) Where this Regulation provides for specifications or restrictions of its rules by Member State law, Member States may, as far as necessary for the coherence and for making the national provisions comprehensible to the persons to whom they apply, incorporate elements of the Regulation in their respective national law.</p>

<p>(7) The objectives and principles of Directive 95/46/EC remain sound, but it has not prevented fragmentation in the way data protection is implemented across the Union, legal uncertainty and a widespread public perception that there are significant risks for the protection of individuals associated notably with online activity. Differences in the level of protection of the rights and freedoms of individuals, notably to the right to the protection of personal data, with regard to the processing of personal data afforded in the Member States may prevent the free flow of personal data throughout the Union. These differences may therefore constitute an obstacle to the pursuit of economic activities at the level of the Union, distort competition and impede authorities in the discharge of their responsibilities under Union law. This difference in levels of protection is due to the existence of differences in the implementation and application of Directive 95/46/EC.</p>	<p>(7) The objectives and principles of Directive 95/46/EC remain sound, but it has not prevented fragmentation in the way data protection is implemented across the Union, legal uncertainty and a widespread public perception that there are significant risks for the protection of individuals associated notably with online activity. Differences in the level of protection of the rights and freedoms of individuals, notably to the right to the protection of personal data, with regard to the processing of personal data afforded in the Member States may prevent the free flow of personal data throughout the Union. These differences may therefore constitute an obstacle to the pursuit of economic activities at the level of the Union, distort competition and impede authorities in the discharge of their responsibilities under Union law. This difference in levels of protection is due to the existence of differences in the implementation and application of Directive 95/46/EC.</p>	<p>(7) The objectives and principles of Directive 95/46/EC remain sound, but it has not prevented fragmentation in the way data protection is implemented across the Union, legal uncertainty and a widespread public perception that there are significant risks for the protection of individuals associated notably with online activity. Differences in the level of protection of the rights and freedoms of individuals, notably to the right to the protection of personal data, with regard to the processing of personal data afforded in the Member States may prevent the free flow of personal data throughout the Union. These differences may therefore constitute an obstacle to the pursuit of economic activities at the level of the Union, distort competition and impede authorities in the discharge of their responsibilities under Union law. This difference in levels of protection is due to the existence of differences in the implementation and application of Directive 95/46/EC.</p>	<p>(7) The objectives and principles of Directive 95/46/EC remain sound, but it has not prevented fragmentation in the way data protection is implemented across the Union, legal uncertainty and a widespread public perception that there are significant risks for the protection of individuals associated notably with online activity. Differences in the level of protection of the rights and freedoms of individuals, notably to the right to the protection of personal data, with regard to the processing of personal data afforded in the Member States may prevent the free flow of personal data throughout the Union. These differences may therefore constitute an obstacle to the pursuit of economic activities at the level of the Union, distort competition and impede authorities in the discharge of their responsibilities under Union law. This difference in levels of protection is due to the existence of differences in the implementation and application of Directive 95/46/EC.</p>
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<p>(8) In order to ensure consistent and high level of protection of individuals and to remove the obstacles to flows of personal data, the level of protection of the rights and freedoms of individuals with regard to the processing of such data should be equivalent in all Member States. Consistent and homogenous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data should be ensured throughout the Union.</p>	<p>(8) In order to ensure consistent and high level of protection of individuals and to remove the obstacles to flows of personal data, the level of protection of the rights and freedoms of individuals with regard to the processing of such data should be equivalent in all Member States. Consistent and homogenous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data should be ensured throughout the Union.</p>	<p>(8) In order to ensure consistent and high level of protection of individuals and to remove the obstacles to flows of personal data <i>within the Union</i>, the level of protection of the rights and freedoms of individuals with regard to the processing of such data should be equivalent in all Member States. Consistent and homogenous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data should be ensured throughout the Union. <i>Regarding the processing of personal data for compliance with a legal obligation, for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Member States should be allowed to maintain or introduce national provisions to further specify the application of the rules of this Regulation. In conjunction with the general and horizontal law on data protection implementing</i></p>	<p>(8) In order to ensure consistent and high level of protection of individuals and to remove the obstacles to flows of personal data within the Union, the level of protection of the rights and freedoms of individuals with regard to the processing of such data should be equivalent in all Member States. Consistent and homogenous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data should be ensured throughout the Union. Regarding the processing of personal data for compliance with a legal obligation, for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Member States should be allowed to maintain or introduce national provisions to further specify the application of the rules of this Regulation. In conjunction with the general and horizontal law on data protection implementing Directive</p>
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		<i>Directive 95/46/EC Member States have several sector specific laws in areas that need more specific provisions. This Regulation also provides a margin of manoeuvre for Member States to specify its rules. Within this margin of manoeuvre sector-specific laws that Member States have issued implementing Directive 95/46/EC should be able to be upheld.</i>	95/46/EC Member States have several sector specific laws in areas that need more specific provisions. This Regulation also provides a margin of manoeuvre for Member States to specify its rules. Within this margin of manoeuvre sector-specific laws that Member States have issued implementing Directive 95/46/EC should be able to be upheld.
(9) Effective protection of personal data throughout the Union requires strengthening and detailing the rights of data subjects and the obligations of those who process and determine the processing of personal data, but also equivalent powers for monitoring and ensuring compliance with the rules for the protection of personal data and equivalent sanctions for offenders in the Member States.	(9) Effective protection of personal data throughout the Union requires strengthening and detailing the rights of data subjects and the obligations of those who process and determine the processing of personal data, but also equivalent powers for monitoring and ensuring compliance with the rules for the protection of personal data and equivalent sanctions for offenders in the Member States.	(9) Effective protection of personal data throughout the Union requires strengthening and detailing the rights of data subjects and the obligations of those who process and determine the processing of personal data, but also equivalent powers for monitoring and ensuring compliance with the rules for the protection of personal data and equivalent sanctions for offenders in the Member States.	(9) Effective protection of personal data throughout the Union requires strengthening and detailing the rights of data subjects and the obligations of those who process and determine the processing of personal data, but also equivalent powers for monitoring and ensuring compliance with the rules for the protection of personal data and equivalent sanctions for offenders in the Member States.

(10) Article 16(2) of the Treaty mandates the European Parliament and the Council to lay down the rules relating to the protection of individuals with regard to the processing of personal data and the rules relating to the free movement of personal data	(10) Article 16(2) of the Treaty mandates the European Parliament and the Council to lay down the rules relating to the protection of individuals with regard to the processing of personal data and the rules relating to the free movement of personal data	(10) Article 16(2) of the Treaty mandates the European Parliament and the Council to lay down the rules relating to the protection of individuals with regard to the processing of personal data and the rules relating to the free movement of personal data	(10) Article 16(2) of the Treaty mandates the European Parliament and the Council to lay down the rules relating to the protection of individuals with regard to the processing of personal data and the rules relating to the free movement of personal data.
(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators, including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member	(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators, including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member	(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators, including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member	(11) In order to ensure a consistent level of protection for individuals throughout the Union and to prevent divergences hampering the free movement of data within the internal market, a Regulation is necessary to provide legal certainty and transparency for economic operators, including micro, small and medium-sized enterprises, and to provide individuals in all Member States with the same level of legally enforceable rights and obligations and responsibilities for controllers and processors, to ensure consistent monitoring of the processing of personal data, and equivalent sanctions in all Member States as well as effective co-operation by the supervisory authorities of different Member

<p>States. To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.</p>	<p>States. To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC¹ of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.</p> <p>¹ <i>Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).</i></p>	<p>States. <i>The proper functioning of the internal market requires that the free movement of personal data within the Union should not be restricted or prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.</i></p> <p>To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.</p>	<p>States. The proper functioning of the internal market requires that the free movement of personal data within the Union should not be restricted or prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.</p> <p>To take account of the specific situation of micro, small and medium-sized enterprises, this Regulation includes a number of derogations. In addition, the Union institutions and bodies, Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation. The notion of micro, small and medium-sized enterprises should draw upon Commission Recommendation 2003/361/EC.</p>
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<p>(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.</p>	<p>(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.</p>	<p>(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person. This should also apply where the name of the legal person contains the names of one or more natural persons.</p>	<p>(12) The protection afforded by this Regulation concerns natural persons, whatever their nationality or place of residence, in relation to the processing of personal data. With regard to the processing of data which concern legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person, the protection of this Regulation should not be claimed by any person.</p>
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<p>(13) The protection of individuals should be technologically neutral and not depend on the techniques used; otherwise this would create a serious risk of circumvention. The protection of individuals should apply to processing of personal data by automated means as well as to manual processing, if the data are contained or are intended to be contained in a filing system. Files or sets of files as well as their cover pages, which are not structured according to specific criteria, should not fall within the scope of this Regulation.</p>	<p>(13) The protection of individuals should be technologically neutral and not depend on the techniques used; otherwise this would create a serious risk of circumvention. The protection of individuals should apply to processing of personal data by automated means as well as to manual processing, if the data are contained or are intended to be contained in a filing system. Files or sets of files as well as their cover pages, which are not structured according to specific criteria, should not fall within the scope of this Regulation.</p>	<p>(13) The protection of individuals should be technologically neutral and not depend on the techniques used; otherwise this would create a serious risk of circumvention. The protection of individuals should apply to processing of personal data by automated means as well as to manual processing, if the data are contained or are intended to be contained in a filing system. Files or sets of files as well as their cover pages, which are not structured according to specific criteria, should not fall within the scope of this Regulation.</p>	<p>(13) The protection of individuals should be technologically neutral and not depend on the techniques used; otherwise this would create a serious risk of circumvention. The protection of individuals should apply to processing of personal data by automated means as well as to manual processing, if the data are contained or are intended to be contained in a filing system. Files or sets of files as well as their cover pages, which are not structured according to specific criteria, should not fall within the scope of this Regulation.</p>
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<p>(14) This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law, nor does it cover the processing of personal data by the Union institutions, bodies, offices and agencies, which are subject to Regulation (EC) No 45/2001, or the processing of personal data by the Member States when carrying out activities in relation to the common foreign and security policy of the Union.</p>	<p>(14) This Regulation does not This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law, nor does it cover the processing of personal data by the Union institutions, bodies, offices and agencies, which are subject to. Regulation (EC) No 45/2001, or the processing of personal data by the Member States when carrying out activities in relation to the common foreign and security policy of the Union <i>of the European Parliament and of the Council¹ should be brought in line with this Regulation and applied in accordance with this Regulation.</i></p> <p>_____</p> <p><i>¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</i></p>	<p>(14) This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law, <i>such as activities concerning national security</i>, nor does it cover the processing of personal data by the Union institutions, bodies, offices and agencies, which are subject to Regulation (EC) No 45/2001, or the processing of personal data by the Member States when carrying out activities in relation to the common foreign and security policy of the Union.</p>	<p>(14) This Regulation does not address issues of protection of fundamental rights and freedoms or the free flow of data related to activities which fall outside the scope of Union law, such as activities concerning national security, nor does it cover the processing of personal data by the Member States when carrying out activities in relation to the common foreign and security policy of the Union.</p>
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		<p><i>(14a) Regulation (EC) No 45/2001 applies to the processing of personal data by the Union institutions, bodies, offices and agencies. Regulation (EC) No 45/2001 and other Union legal instruments applicable to such processing of personal data should be adapted to the principles and rules of this Regulation.</i></p>	<p>(14a) Regulation (EC) No 45/2001 applies to the processing of personal data by the Union institutions, bodies, offices and agencies. Regulation (EC) No 45/2001 and other Union legal instruments applicable to such processing of personal data should be adapted to the principles and rules of this Regulation. This Regulation shall apply to Union institutions, bodies, offices and agencies until the rules of Regulation (EC) No 45/2001 are adapted.</p>
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	<i>Amendment 2</i>		
<p>(15) This Regulation should not apply to processing of personal data by a natural person, which are exclusively personal or domestic, such as correspondence and the holding of addresses, and without any gainful interest and thus without any connection with a professional or commercial activity. The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.</p>	<p>(15) This Regulation should not apply to processing of personal data by a natural person, which are exclusively personal, <i>family-related</i>, or domestic, such as correspondence and the holding of addresses <i>or a private sale</i>; and without any gainful interest and thus without any connection with a professional or commercial activity. The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities. <i>However, this Regulation should apply to controllers and processors which provide the means for processing personal data for such personal or domestic activities.</i></p>	<p>(15) This Regulation should not apply to processing of personal data by a natural person <i>in the course of a, which are exclusively personal or domestic household activity</i>, such as correspondence and the holding of addresses, and without any gainful interest and thus without any a connection with a professional or commercial activity. <i>Personal and household activities include social networking and on-line activity undertaken within the context of such personal and household activities. However, this Regulation</i> The exemption should also not apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.</p>	<p>(15) This Regulation should not apply to processing of personal data by a natural person in the course of a personal or household activity-and thus without a connection with a professional or commercial activity. Personal and household activities could include social networking and on-line activity undertaken within the context of such personal and household activities. However, this Regulation should apply to controllers or processors which provide the means for processing personal data for such personal or domestic activities.</p>

<p>(16) The protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, is subject of a specific legal instrument at Union level. Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY).</p>	<p>(16) The protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, is subject of a specific legal instrument at Union level. Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY<i>(Directive 2014/.../EU of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences</i></p>	<p>(16) The protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties <i>or the safeguarding against and the prevention of threats to public security</i>, and the free movement of such data, is subject of a specific legal instrument at Union level.</p> <p>Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY).</p> <p><i>Member States may entrust competent authorities within the meaning of Directive XX/YYYY with other tasks which are not necessarily carried out for the</i></p>	<p>(16) The protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties or the safeguarding against and the prevention of threats to public security, and the free movement of such data, is subject of a specific legal instrument at Union level.</p> <p>Therefore, this Regulation should not apply to the processing activities for those purposes. However, data processed by public authorities under this Regulation when used for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties should be governed by the more specific legal instrument at Union level (Directive XX/YYYY).</p> <p>Member States may entrust competent authorities within the meaning of Directive XX/YYYY with other tasks which are not necessarily carried out for the purposes of the prevention,</p>
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	<p><i>or the execution of criminal penalties, and the free movement of such data).</i></p>	<p><i>purposes of the prevention, investigation, detection or prosecution of criminal offences or the safeguarding against and prevention of threats to public security, so that the processing of personal data for those other purposes, in so far as it is within the scope of Union law, fallw within the scope of this Regulation.</i></p> <p><i>With regard to the processing of personal data by those competent authorities for purposes falling within scope of the General Data Protection Regulation, Member States may maintain or introduce more specific provisions to adapt the application of the rules of the General Data Protection Regulation. Such provisions may determine more precisely specific requirements for processing of personal data by those competent authorities for those other purposes, taking into account the constitutional, organisational and administrative structure of the respective Member State.</i></p>	<p>investigation, detection or prosecution of criminal offences or the safeguarding against and prevention of threats to public security, so that the processing of personal data for those other purposes, in so far as it is within the scope of Union law, fall within the scope of this Regulation.</p> <p>With regard to the processing of personal data by those competent authorities for purposes falling within scope of the General Data Protection Regulation, Member States may maintain or introduce more specific provisions to adapt the application of the rules of the General Data Protection Regulation. Such provisions may determine more precisely specific requirements for processing of personal data by those competent authorities for those other purposes, taking into account the constitutional, organisational and administrative structure of the respective Member State.</p>
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		<p><i>When processing of personal data by private bodies falls within the scope of this Regulation, this Regulation should provide for the possibility for Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific important interests including public security and the prevention, investigation, detection and prosecution of criminal offences. This is relevant for instance in the framework of anti-money laundering or the activities of forensic laboratories.</i></p>	<p>When processing of personal data by private bodies falls within the scope of this Regulation, this Regulation should provide for the possibility for Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific important interests including public security and the prevention, investigation, detection and prosecution of criminal offences. This is relevant for instance in the framework of anti-money laundering or the activities of forensic laboratories.</p>
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		<p><i>(16a) While this Regulation applies also to the activities of courts and other judicial authorities, Union or Member State law could specify the processing operations and processing procedures in relation to the processing of personal data by courts and other judicial authorities. The competence of the supervisory authorities should not cover the processing of personal data when courts are acting in their judicial capacity, in order to safeguard the independence of the judiciary in the performance of its judicial tasks, including its decision-making. Supervision of such data processing operations may be entrusted to specific bodies within the judicial system of the Member State, which should in particular control compliance with the rules of this Regulation, promote the awareness of the judiciary of their obligations under this Regulation and deal with complaints in relation to such processing.</i></p>	<p>(16a) While this Regulation applies also to the activities of courts and other judicial authorities, Union or Member State law could specify the processing operations and processing procedures in relation to the processing of personal data by courts and other judicial authorities. The competence of the supervisory authorities should not cover the processing of personal data when courts are acting in their judicial capacity, in order to safeguard the independence of the judiciary in the performance of its judicial tasks, including its decision-making. Supervision of such data processing operations may be entrusted to specific bodies within the judicial system of the Member State, which should in particular control compliance with the rules of this Regulation, promote the awareness of the judiciary of their obligations under this Regulation and deal with complaints in relation to such processing.</p>
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<p>(17) This Regulation should be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.</p>	<p>(17) This Regulation should be without prejudice to the application of Directive 2000/31/EC of the European Parliament and of the Council¹, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.</p> <p>¹ <i>Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).</i></p>	<p>(17) <i>Directive 2000/31/EC does not apply to questions relating to information society services covered by this Regulation. That Directive seeks to contribute to the proper functioning of the internal market by ensuring the free movement of information society services between Member States. Its application should not be affected by this Regulation.</i> This Regulation should <i>therefore</i> be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.</p>	<p>(17) This Regulation should be without prejudice to the application of Directive 2000/31/EC of the European Parliament and of the Council, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive. That Directive seeks to contribute to the proper functioning of the internal market by ensuring the free movement of information society services between Member States.</p>
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<p>(18) This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation.</p>	<p>(18) This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation. <i>Personal data in documents held by a public authority or public body may be disclosed by that authority or body in accordance with Union or Member State law regarding public access to official documents, which reconciles the right to data protection with the right of public access to official documents and constitutes a fair balance of the various interests involved.</i></p>	<p><i>(18) deleted</i></p>	
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<p>(23) The principles of protection should apply to any information concerning an identified or identifiable person. To determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the individual. The principles of data protection should not apply to data rendered anonymous in such a way that the data subject is no longer identifiable.</p>	<p>(23) The principles of data protection should apply to any information concerning an identified or identifiable natural person. To determine whether a person is identifiable, account should be taken of all the means likely reasonably likely to be used either by the controller or by any other person to identify or single out the individual directly or indirectly. To ascertain whether means are reasonably likely to be used to identify the individual, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration both available technology at the time of the processing and technological development. The principles of data protection should therefore not apply to anonymous data rendered anonymous in such a way that the data subject is no longer identifiable, which is information that does not relate to an identified or identifiable</p>	<p>(23) The principles of <i>data</i> protection should apply to any information concerning an identified or identifiable <i>natural</i> person. <i>Data including pseudonymised data, which could be attributed to a natural person by the use of additional information, should be considered as information on an identifiable natural person.</i> To determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the individual <i>directly or indirectly. To ascertain whether means are reasonable likely to be used to identify the individual, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration both available technology at the time of the processing and technological development.</i> The principles of data protection should <i>therefore</i> not</p>	<p>(23) The principles of data protection should apply to any information concerning an identified or identifiable natural person. Data including pseudonymised data, which could be attributed to a natural person by the use of additional information, should be considered as information on an identifiable natural person. To determine whether a person is identifiable, account should be taken of all the means reasonably likely to be used either by the controller or by any other person to identify the individual directly or indirectly, such as singling out. To ascertain whether means are reasonable likely to be used to identify the individual, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration both available technology at the time of the processing and technological development. The principles of data protection should therefore not</p>
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	<p>natural person. This Regulation does therefore not concern the processing of such anonymous data, including for statistical and research purposes.</p>	<p>apply to <i>anonymous information, that is information which does not relate to an identified or identifiable natural person or to data rendered anonymous in such a way that the data subject is not or no longer identifiable. This Regulation does therefore not concern the processing of such anonymous information, including for statistical and research purposes.</i></p>	<p>apply to anonymous information, that is information which does not relate to an identified or identifiable natural person or to data rendered anonymous in such a way that the data subject is not or no longer identifiable. This Regulation does therefore not concern the processing of such anonymous information, including for statistical and research purposes.</p>
		<p><i>(23aa) The principles of data protection should not apply to data of deceased persons. The national law of a Member State may provide for rules regarding the processing of data of deceased persons.</i></p>	<p>(23aa) This Regulation should not apply to data of deceased persons. The national law of a Member State may provide for rules regarding the processing of data of deceased persons.</p>

<p>(24) When using online services, individuals may be associated with online identifiers provided by their devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers. This may leave traces which, combined with unique identifiers and other information received by the servers, may be used to create profiles of the individuals and identify them. It follows that identification numbers, location data, online identifiers or other specific factors as such need not necessarily be considered as personal data in all circumstances.</p>	<p>(24) When using online services, individuals may be associated with online <i>This Regulation should be applicable to processing involving identifiers provided by their devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers and Radio Frequency Identification tags, unless those identifiers do not relate to an identified or identifiable natural person. This</i> may leave traces which, combined with unique identifiers and other information received by the servers, may be used to create profiles of the individuals and identify them. It follows that identification numbers, location data, online identifiers or other specific factors as such need not necessarily be considered as personal data in all circumstances.</p>	<p>(24) When using online services, individuals may be associated with online identifiers provided by their devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers. This may leave traces which, <i>when</i> combined with unique identifiers and other information received by the servers, may be used to create profiles of the individuals and identify them. It follows that <i>Identification numbers, location data, online identifiers or other specific factors as such need should not necessarily be considered as personal data in all circumstances if they do not identify an individual or make an individual identifiable.</i></p>	<p>(24) When using online services, individuals may be associated with online identifiers provided by their devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers and Radio Frequency Identification tags. This may leave traces which, when combined with unique identifiers and other information received by the servers, may be used to create profiles of the individuals and identify them.</p> <p>Identification numbers, location data, online identifiers or other specific factors as such should not be considered as personal data if they do not identify an individual or make an individual identifiable.</p>
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<p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. It is also for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.</p>	<p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. <i>This should include also collective agreements that could be recognised under national law as having general validity.</i> It is also for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association.</p>	<p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a legal basis in Union law, or in <i>the national law of</i> a Member State law which meets the requirements of the Charter of Fundamental Rights of the European Union for any limitation of the rights and freedoms. It is <i>should be</i> also for Union or national law to determine <i>the purpose of processing.</i> whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association. <i>Furthermore, this basis could specify the general conditions of the Regulation governing the lawfulness of data processing, determine specifications for determining the controller, the type of data which are subject to the</i></p>	<p>(36) Where processing is carried out in compliance with a legal obligation to which the controller is subject or where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority, the processing should have a basis in Union law, or in the national law of a Member State. It should be also for Union or national law to determine the purpose of processing. Furthermore, this basis could specify the general conditions of the Regulation governing the lawfulness of data processing, determine specifications for determining the controller, the type of data which are subject to the processing, the data subjects concerned, the entities to which the data may be disclosed, the purpose limitations, the storage period and other measures to ensure lawful and fair processing.</p> <p>It should also be for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority</p>
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		<p><i>processing, the data subjects concerned, the entities to which the data may be disclosed, the purpose limitations, the storage period and other measures to ensure lawful and fair processing.</i></p> <p><i>It should also be for Union or national law to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public authority or another natural or legal person governed by public law, or by private law such as a professional association, where grounds of public interest so justify including for health purposes, such as public health and social protection and the management of health care services.</i></p>	<p>should be a public authority or another natural or legal person governed by public law, or by private law such as a professional association, where grounds of public interest so justify including for health purposes, such as public health and social protection and the management of health care services.</p>
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<p>(59) Restrictions on specific principles and on the rights of information, access, rectification and erasure or on the right to data portability, the right to object, measures based on profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or the protection of the data subject or the rights and freedoms of others.</p> <p>Those restrictions should be in compliance with requirements set out by the Charter of Fundamental Rights of the European Union and</p>	<p>(59) Restrictions on specific principles and on the rights of information, access, rectification and erasure or on the right <i>of access and to obtain</i> data portability, the right to object, measures based on profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other <i>specific and well-defined</i> public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or the protection of the data subject or the rights and freedoms of others.</p> <p>Those restrictions should be in compliance with requirements set</p>	<p>(59) Restrictions on specific principles and on the rights of information, access, rectification and erasure or on the right to data portability, the right to object, measures based on profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, <i>the keeping of public registers kept for reasons of general public interest, further processing of archived personal data to provide specific information related to the political behaviour under former totalitarian state regimes</i> or the</p>	<p>(59) Restrictions on specific principles and on the rights of information, access, rectification and erasure or on the right to data portability, the right to object, measures based on profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, the keeping of public registers kept for reasons of general public interest, further processing of archived personal data to provide specific information related to the political behaviour under former totalitarian state regimes or the protection of the data</p>
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by the European Convention for the Protection of Human Rights and Fundamental Freedoms.	out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.	protection of the data subject or the rights and freedoms of others, <i>including social protection public health and humanitarian purposes, such as the performance of a task incumbent upon the International Red Cross and Red Crescent Movement.</i> Those restrictions should be in compliance with requirements set out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.	subject or the rights and freedoms of others, including social protection public health and humanitarian purposes, such as the performance of a task incumbent upon the International Red Cross and Red Crescent Movement. Those restrictions should be in compliance with requirements set out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.
		<i>(59a) Nothing in this Regulation should derogate from the privilege of non-disclosure of confidential information of the International Committee of the Red Cross under international law, which shall be applicable in judicial and administrative proceedings.</i>	(59a) Nothing in this Regulation should derogate from the privilege of non-disclosure of confidential information of the International Committee of the Red Cross under international law, which shall be applicable in judicial and administrative proceedings.

CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS
<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>
<i>Subject matter and objectives</i>	<i>Subject matter and objectives</i>	<i>Subject matter and objectives</i>	<i>Subject matter and objectives</i>
1. This Regulation lays down rules relating to the protection of individuals with regard to the processing of personal data and rules relating to the free movement of personal data.	1. This Regulation lays down rules relating to the protection of individuals with regard to the processing of personal data and rules relating to the free movement of personal data	1. This Regulation lays down rules relating to the protection of individuals with regard to the processing of personal data and rules relating to the free movement of personal data.	1. This Regulation lays down rules relating to the protection of individuals with regard to the processing of personal data and rules relating to the free movement of personal data.
2. This Regulation protects the fundamental rights and freedoms of natural persons, and in particular their right to the protection of personal data.	2. This Regulation protects the fundamental rights and freedoms of natural persons, and in particular their right to the protection of personal data.	2. This Regulation protects the fundamental rights and freedoms of natural persons, and in particular their right to the protection of personal data.	2. This Regulation protects fundamental rights and freedoms of natural persons, and in particular their right to the protection of personal data.

		<p><i>2a. Member States may maintain or introduce more specific provisions to adapt the application of the rules of this Regulation with regard to the processing of personal data for compliance with a legal obligation or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or for other specific processing situations as provided for in Article 6(1)(c) and (e) by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing including for other specific processing situations as provided for in Chapter IX.</i></p>	Moved to Article 6(3)
3. The free movement of personal data within the Union shall neither be restricted nor prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.	3. The free movement of personal data within the Union shall neither be restricted nor prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.	3. The free movement of personal data within the Union shall neither be restricted nor prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.	3. The free movement of personal data within the Union shall neither be restricted nor prohibited for reasons connected with the protection of individuals with regard to the processing of personal data.

<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>
<i>Material scope</i>	<i>Material scope</i>	<i>Material scope</i>	<i>Material scope</i>
	<i>Amendment 96</i>		
1. This Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.	1. This Regulation applies to the processing of personal data wholly or partly by automated means, <i>irrespective of the method of processing</i> , and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.	1. This Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.	1. This Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.
2. This Regulation does not apply to the processing of personal data:	2. This Regulation does not apply to the processing of personal data:	2. This Regulation does not apply to the processing of personal data:	2. This Regulation does not apply to the processing of personal data:
(a) in the course of an activity which falls outside the scope of Union law, in particular concerning national security;	(a) in the course of an activity which falls outside the scope of Union law, in particular concerning national security ;	(a) in the course of an activity which falls outside the scope of Union law, in particular concerning national security ;	(a) in the course of an activity which falls outside the scope of Union law;
(b) by the Union institutions, bodies, offices and agencies;	<i>deleted</i>	(b) by the Union institutions, bodies, offices and agencies;	[(b) by the Union institutions, bodies, offices and agencies;]
(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 of the Treaty on European Union;	(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 <i>of Title V</i> of the Treaty on European Union;	(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 <i>of Title V</i> of the Treaty on European Union;	(c) by the Member States when carrying out activities which fall within the scope of Chapter 2 of Title V of the Treaty on European Union;

(d) by a natural person without any gainful interest in the course of its own exclusively personal or household activity;	(d) by a natural person without any gainful interest in the course of its own an exclusively personal or household activity. <i>This exemption shall also apply to a publication of personal data where it can be reasonably expected that it they will be only accessed by a limited number of persons;</i>	(d) by a natural person without any gainful interest in the course of its own exclusively a personal or household activity;	(d) by a natural person in the course of a purely personal or household activity;
(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties	(e) by competent public authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.	(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences; or the execution of criminal penalties <i>or the safeguarding against and the prevention of threats to public security.</i>	(e) by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences, the execution of criminal penalties or the safeguarding against and the prevention of threats to public security.
			[2a. This Regulation applies to the processing of personal data by the Union institutions, bodies, offices and agencies until Regulation 45/2001 is adapted.]
3. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.	3. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.	<i>deleted</i>	3. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.

<i>Article 3</i>	<i>Article 3</i>	<i>Article 3</i>	<i>Article 3</i>
<i>Territorial scope</i>	<i>Territorial scope</i>	<i>Territorial scope</i>	<i>Territorial scope</i>
	<i>Amendment 97</i>		
1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union.	1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, <i>whether the processing takes place in the Union or not.</i>	1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union.	<i>Tentatively agreed with CHAP V</i> 1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.
2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to:	2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller <i>or processor</i> not established in the Union, where the processing activities are related to:	2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to:	<i>Tentatively agreed with CHAP V</i> 2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:
(a) the offering of goods or services to such data subjects in the Union; or	(a) the offering of goods or services, <i>irrespective of whether a payment of the data subject is required,</i> to such data subjects in the Union; or	(a) the offering of goods or services, <i>irrespective of whether a payment by the data subject is required,</i> to such data subjects in the Union; or	<i>Tentatively agreed with CHAP V</i> (a) the offering of goods or services, irrespective of whether a payment by the data subject is required, to such data subjects in the Union; or

(b) the monitoring of their behaviour.	(b) the monitoring of their behaviour such data subjects.	(b) the monitoring of their behaviour as far as their behaviour takes place within the European Union.	<i>Tentatively agreed with CHAP V</i> (b) the monitoring of their behaviour as far as their behaviour takes place within the European Union.
3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.	3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.	3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.	<i>Tentatively agreed with CHAP V</i> 3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.
<i>Article 4</i>	<i>Article 4</i>	<i>Article 4</i>	<i>Article 4</i>
<i>Definitions</i>	<i>Definitions</i>	<i>Definitions</i>	<i>Definitions</i>
	<i>Amendment 98</i>		
For the purposes of this Regulation:	For the purposes of this Regulation:	For the purposes of this Regulation:	For the purposes of this Regulation:
(1) 'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular	deleted	(1) ' personal data ' means any information relating to data subject' means an identified or identifiable natural person (" data subject or a natural an identifiable person is one who can be identified, directly or indirectly, by means	(1) 'personal data' means any information relating to an identified or identifiable natural person 'data subject'; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a

by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;		reasonably likely to be used by the controller or by any other natural or legal person , in particular by reference to <i>an identifier such as a name</i> , an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;
(2) 'personal data' means any information relating to a data subject;	(2) 'personal data' means any information relating to a <i>an identified or identifiable natural person</i> ('data subject'); <i>an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, unique identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social or gender identity of that person;</i>	<i>deleted</i>	

<p>(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;</p>	<p>(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;</p>	<p>(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;</p>	<p>(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;</p>
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<i>Article 6</i>	<i>Article 6</i>	<i>Article 6</i>	
<i>Lawfulness of processing</i>	<i>Lawfulness of processing</i>	<i>Lawfulness of processing</i>	
	<i>Amendment 100</i>		
			3. (new) Member States may maintain or introduce more specific provisions to [adapt the application] of the rules of this Regulation with regard to Article 6(1)(c) and (e) by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing including for other specific processing situations as provided for in Chapter IX.
3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:	3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:	3. The basis of <i>for</i> the processing referred to in points (c) and (e) of paragraph 1 must be provided for <i>established in accordance with:</i>	3. The basis for the processing referred to in points (c) and (e) of paragraph 1 must be laid down by:
(a) Union law, or	(a) Union law, or	(a) Union law, or	(a) Union law, or
(b) the law of the Member State to which the controller is subject.	(b) the law of the Member State to which the controller is subject.	(b) <i>national</i> the law of the Member State to which the controller is subject.	(b) Member State law to which the controller is subject.

		<p><i>The purpose of the processing shall be determined in this legal basis or as regards the processing referred to in point (e) of paragraph 1, be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This legal basis may contain specific provisions to adapt the application of rules of this Regulation, inter alia the general conditions governing the lawfulness of data processing by the controller, the type of data which are subject to the processing, the data subjects concerned; the entities to, and the purposes for which the data may be disclosed; the purpose limitation; storage periods and processing operations and processing procedures, including measures to ensure lawful and fair processing, including for other specific processing situations as provided for in Chapter IX.</i></p>	<p>The purpose of the processing shall be determined in this legal basis or as regards the processing referred to in point (e) of paragraph 1, be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This legal basis may contain specific provisions to [adapt the application] of rules of this Regulation, inter alia the general conditions governing the lawfulness of data processing by the controller, the type of data which are subject to the processing, the data subjects concerned; the entities to, and the purposes for which the data may be disclosed; the purpose limitation; storage periods and processing operations and processing procedures, including measures to ensure lawful and fair processing, including for other specific processing situations as provided for in Chapter IX.</p>
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SECTION 5 RESTRICTIONS	SECTION 5 RESTRICTIONS	SECTION 5 RESTRICTIONS	
<i>Article 21</i>	<i>Article 21</i>	<i>Article 21</i>	<i>Article 21</i>
<i>Restrictions</i>	<i>Restrictions</i>	<i>Restrictions</i>	<i>Restrictions</i>
	<i>Amendment 116</i>		
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 19 and Article 32, when such a restriction constitutes <i>meets a clearly defined objective of public interest, respects the essence of the right to protection of personal data, is proportionate to the legitimate aim pursued and respects the fundamental rights and interests of the data subject</i> and is a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law <i>to which the data controller or processor is subject</i> may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11-12 to 20 and Article 32, <i>as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 20</i> , when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law to which the data controller or processor is subject may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 12 to 20 and Article 32, as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 20, when such a restriction respects the essence of the right to protection of personal data and constitutes a necessary and proportionate measure in a democratic society to safeguard:
		<i>(aa) national security;</i>	(aa) national security;
		<i>(ab) defence;</i>	(ab) defence;

(a) public security;	(a) public security;	(a) public security;	(a) public security;
(b) the prevention, investigation, detection and prosecution of criminal offences;	(b) the prevention, investigation, detection and prosecution of criminal offences;	(b) the prevention, investigation, detection and or prosecution of criminal offences or the execution of criminal penalties or the safeguarding against and the prevention of threats to public security;	(b) the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties or the safeguarding against and the prevention of threats to public security;
(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;	(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;	(c) other important objectives of general public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security, and the protection of market stability and integrity;	(c) other important objectives of general public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
		(ca) the protection of judicial independence and judicial proceedings;	(ca) the protection of judicial independence and judicial proceedings;
(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;	(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;	(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;	(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;

(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d);	(e) a monitoring, inspection or regulatory function connected, even occasionally, with in the framework of the exercise of official a competent public authority in cases referred to in (a), (b), (c) and (d);	(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (aa), (ab), (a) (b), (c) and (d);	(e) a monitoring, inspection or regulatory function connected, even occasionally, in the framework of the exercise of official authority in cases referred to in (aa), (ab), (a), (b), (c) and (d);
(f) the protection of the data subject or the rights and freedoms of others.	(f) the protection of the data subject or the rights and freedoms of others.	(f) the protection of the data subject or the rights and freedoms of others;	(f) the protection of the data subject or the rights and freedoms of others;
		(g) the enforcement of civil law claims.	(g) the enforcement of civil law claims.
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing and the determination of the controller.	2. In particular, any legislative measure referred to in paragraph 1 must be necessary and proportionate in a democratic society and shall contain specific provisions at least as to the objectives to be pursued by the processing and the determination of the controller.: (a) the objectives to be pursued by the processing; (b) the determination of the controller; (c) the specific purposes and	2. In particular, aAny legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant , as to the purposes of the processing or categories of processing, the categories of personal data, the scope of the restrictions introduced, the specification of the controller or categories of controllers, the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing and the risks for the rights and freedoms of data subjects.	2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, as to: - the purposes of the processing or categories of processing, - the categories of personal data, - the scope of the restrictions introduced, - the safeguards to prevent abuse or unlawful access or transfer; - the specification of the controller or categories of controllers,

	<p><i>means of processing;</i></p> <p><i>(d) the safeguards to prevent abuse or unlawful access or transfer;</i></p> <p><i>(e) the right of data subjects to be informed about the restriction.</i></p>		<p>- the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing and</p> <p>- the risks for the rights and freedoms of data subjects;</p> <p>- the right of data subjects to be informed about the restriction [unless this is contrary to the purpose of the restriction].</p>
	<p><i>2a. Legislative measures referred to in paragraph 1 shall neither permit nor oblige private controllers to retain data additional to those strictly necessary for the original purpose.</i></p>		
			<p>2. Churches and religious associations which apply comprehensive rules in accordance with paragraph 1, shall be subject to the control of an independent supervisory authority which may be specific, provided that fulfils the conditions laid down in Chapter VI of this Regulation.</p>