



Council of the  
European Union

Brussels, 8 December 2015  
(OR. en)

14936/15

LIMITE

DATAPROTECT 227

JAI 971

MI 776

DIGIT 106

DAPIX 233

FREMP 290

COMIX 657

CODEC 1647

#### NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	14901/15
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) [first reading] - Preparation for trilogue

In view of the Committee of Permanent Representatives of 9 December 2015, and following informal discussions among JHA Counsellors on 7 December 2015, the Presidency submits new compromise suggestions in relation to provisions relating to processing of personal data for archiving purposes in the public interest, and for scientific, statistical and historical purposes in Article 6(2), Article 9, Article 14a, Article 17 and Article 83.

## *Article 6*

### *Lawfulness of processing*

2. (...) *deleted*

## *Article 9*

### *Processing of special categories of personal data*

2. Paragraph 1 shall not apply if one of the following applies:

(...)

(g) processing is necessary for reasons of substantial public interest, on the basis of Union law, or Member State law, which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the data subject's legitimate interests; or

(...)

(i) processing is necessary for archiving purposes in the public interest, for scientific, statistical or historical purposes in accordance with Article 83(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

(...)

#### *Article 14a*

##### *Information to be provided where the data have not been obtained from the data subject*

(...)

4. Paragraphs 1 to 3a shall not apply where and insofar as:

(...)

(b) the provision of such information proves impossible or would involve a disproportionate effort; in particular for processing for archiving purposes in the public interest or for historical, statistical or scientific purposes subject to the conditions and safeguards referred to in Article 83(1) or in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of the archiving purposes in the public interest or of the scientific, historical, statistical purposes; in such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available; or

#### *Article 17*

##### *Right to erasure ("to be forgotten")*

(...)

3. Paragraphs 1 and 2 shall not apply to the extent that processing of the personal data is necessary:

(...)

(d) for archiving purposes in the public interest or for scientific, historical and statistical purposes in accordance with Article 83(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of the archiving purposes in the public interest or of the scientific, historical, statistical purposes.

## *Article 83*

### *Processing of personal data for archiving purposes in the public interest or for scientific, statistical or historical purposes*

*(moved from Art 6(2))*

1. Processing of personal data for archiving purposes in the public interest, for scientific, statistical or historical purposes shall be subject to appropriate safeguards for the rights and freedoms of the data subject. These safeguards shall ensure that technical and organisational measures pursuant to this Regulation are in place in particular in order to ensure the respect of the principle of data minimisation and include processing which does not permit or not any longer permit the identification of data subjects without the use of additional information, such as pseudonymisation, as long as these purposes can be fulfilled in this manner.
2. Where personal data are processed for scientific, statistical or historical purposes, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 17a and 19 subject to the conditions and safeguards referred to in paragraph 1 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of these purposes.
3. Where personal data are processed for archiving purposes in the public interest, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 17a, 17b, 18 and 19 subject to the conditions and safeguards referred to in paragraph 1 in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of these purposes.
4. Where processing referred to in paragraphs 2 and 3 serves at the same time another purpose, the derogations shall apply only to the processing for the purposes referred to in those paragraphs.