



Council of the  
European Union

Brussels, 23 March 2015  
(OR. en)

7464/15

LIMITE

DATAPROTECT 36  
JAI 191  
MI 182  
DIGIT 6  
DAPIX 45  
FREMP 58  
COMIX 135  
CODEC 398

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Interinstitutional File:  
2012/0011 (COD)

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#### NOTE

From:	French delegation
To:	Delegations
No. prev. doc.:	7084/15 DATAPROTECT 31 JAI 169 MI 159 DRS 23 DAPIX 39 FREMP 50 COMIX 114 CODEC 336 15395/14 DATAPROTECT 165 JAI 860 MI 965 DRS 167 DAPIX 167 FREMP 202 COMIX 604 CODEC 2222
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 III and VIII

Delegations will find the proposals of the French delegation about the chapter III. Changes proposed by the French delegation, in comparison with the text of the Presidency ([7084/15](#)), are in *bold, italic and underlined*.

**Recital on personal data of deceased persons**

**« This Regulation should not preclude Member States from applying specific data protection rules to the personal data of deceased persons ».**

**Article 12**

**Transparent information, communication and modalities**

**for exercising the rights of the data subject**

- 1a. The controller shall facilitate the exercise of data subject rights under Articles 15 to 19 (...) **including in cases where the controller was not initially in position to identify the data subject. In cases referred to in Article 10 (2), the data subject should only have to provide the minimum additional information necessary in order to be able to exercise his or her rights. Those rights can never be denied by the controller unless the controller demonstrates that the impossibility to identify the data subject safeguards the data subject's rights and freedoms.**
2. The controller shall provide the information referred to in Articles 14a and 15 and information on action taken on a request under Articles 16 to 19 to the data subject without undue delay and at the latest within **one-two** months of receipt of the request (...). This period may be extended for a further two months when necessary, taking into account the complexity of the request and the number of requests. Where the extended period applies, the data subject shall be informed within one month of receipt of the request of the reasons for the delay.

## Article 13a

### Standardised information policies

1. In order to ensure that the information to be provided to the data subjects according to this Regulation will be presented in an easily visible and clearly legible way and will appear in a language easily understood by the data subjects concerned, the European Data Protection Board shall issue guidelines to further specify the requirements for specific categories of processing or specific data processing sectors, including by issuing aligned tabular, using text and symbols or pictographs.

## Article 14

### Information to be provided where the data are collected from the data subject

1. Where personal data relating to a data subject are collected from the data subject, the controller shall (...), at the time when personal data are obtained, provide the data subject with the following information:

(...)

- (b) the purposes of the processing and of compatible further processing for which the personal data are intended (...).

- 1a. In addition to the information referred to in paragraph 1, the controller shall provide the data subject with such further information necessary to ensure fair and transparent processing in respect of the data subject, having regard to the specific circumstances and context in which the personal data are processed:

(...)

- (e) the existence of the right to request from the controller access to and rectification or erasure of the personal data or restriction of processing of personal data concerning the data subject, *the existence of the right to request data portability when it is available and essential information about the format used where the data are processed by automated means*, and to object to the processing of such personal data (...);

#### **Article 14 a**

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

1. Where personal data have not been obtained from the data subject, the controller shall provide the data subject with the following information:  
  
(...)  
  
(b) the purposes of the processing *and of compatible further processing* for which the personal data are intended.
2. In addition to the information referred to in paragraph 1, the controller shall provide the data subject with such further information necessary to ensure fair and transparent processing in respect of the data subject, having regard to the specific circumstances *and context* in which the personal data are processed (...):  
  
(...)

*(da) where applicable, that the controller intends to transfer personal data to a recipient in a third country or international organisation;*

- (e) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject, *the existence of the right to request data portability when it is available and essential information about the format used where the data are processed by automated means* and to object to the processing of such personal data (...);

(...)

3. The controller shall provide the information referred to in paragraphs 1 and 2:

- (a) ~~within a reasonable period after when~~ obtaining the data, having regard to the specific circumstances in which the data are processed, or

## Article 15

### Right of access for the data subject

1. The data subject shall have the right to obtain from the controller at reasonable intervals and free of charge (...) confirmation as to whether or not personal data ~~concerning~~ *belonging to* him or her are being processed and where such personal data are being processed access to the data and the following information:

(...)

- 1b. On request ~~and without an excessive charge~~, the controller shall provide a copy of the personal data undergoing processing to the data subject *and where the processing is associated with the provision of an online communication service accessible to the public of all the data supplied by the data subject*.
2. Where personal data supplied by the data subject are processed by automated means and in a structured and commonly used format, the controller shall, on request ~~through an easily accessible system and without an excessive charge~~, provide a copy of the data concerning the data subject in that format to the data subject.

- 2a. The right to obtain a copy referred to in paragraphs 1b and 2 **shall be without prejudice to intellectual property rights in relation to the processing of those personal data and** shall not apply where such copy cannot be provided without disclosing personal data of other data subjects **which were not supplied by the data subject to the controller.**

(...)

+ Corresponding recital 51:

A natural person should have the right of access to data which has been collected concerning him or her, and to exercise this right easily and at reasonable intervals, in order to be aware of and verify the lawfulness of the processing. This includes the right for individuals to have access to their **login data and to their** personal data concerning their health, for example the data in their medical records containing such information as diagnosis, examination results, assessments by treating physicians and any treatment or interventions provided.

## Article 17

### Right to be forgotten and to erasure

1. The (...) controller shall have the obligation to erase personal data without undue delay and the data subject shall have the right to obtain the erasure of personal data concerning him or her without undue delay where one of the following grounds applies:

(...)

**(f) the data have been collected when the data subject was minor.**

+ Corresponding recital 53:

“This right is in particular relevant, **when the data were collected when the data subject is or was** a child, when not being fully aware of the risks involved by the processing, and later wants to remove such personal data especially on the Internet. **This right should be exercised notwithstanding the fact that the data subject is no longer minor.**”

(...).

2a. Where the controller (...) has made the personal data public and is obliged pursuant to paragraph 1 to erase the data, the controller, taking account of available technology and the cost of implementation, shall take (...) reasonable steps, including technical measures, (...) to inform known controllers which are processing the data, that a data subject requests them to erase any links to, or copy or replication of that personal data **and on which grounds this request was accepted.**

#### **Article 17a**

##### **Right to restriction of processing**

(...)

~~**4. — A data subject who obtained the restriction of processing pursuant to paragraph 1 (...) shall be informed by the controller before the restriction of processing is lifted.**~~

#### **Article 17b**

##### **Notification obligation regarding rectification, erasure or restriction**

The controller shall communicate any rectification, erasure or restriction of processing carried out in accordance with Articles 16, 17(1) and 17a to each **known** recipient to whom the data have been disclosed, unless this proves impossible or involves a disproportionate effort.

## Article 17c

### Dispute Settlements

(...)

2. The Internet search engine operator has to provide a third party seriously affected an opportunity to submit an opinion on the data subject's request.

(...)

4. Member States shall foresee for amicable settlements procedures to settle disputes between the Internet search engine operator, the data subject and/or seriously-affected third parties and for the possibility for each of them to trigger the amicable settlement procedure. Member States shall also provide for legal redress before their national judge in case the dispute cannot be settled amicably.

## Article 18

### Right to data portability

(...)

2. The data subject shall have the right to obtain from the controller the transmission of the personal data concerning belonging to him or her-which he or she has provided to this a controller to another controller in a commonly used and machine-readable format, through an easily accessible system, and without hindrance from the controller to which the data have been provided to, where

- (a) the processing is based on consent pursuant to point (a) of Article 6(1) or point (a) of Article 9 (2) or on a contract pursuant to point (b) of Article 6 (1), including where the processing is associated with the provision of an online communication service accessible to the public; and

(...)

- ~~3. The Commission may specify (...) the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2)./~~



## SECTION 4

### RIGHT TO OBJECT AND PROFILING

#### Article 19

##### Right to object

1. The data subject shall have the right to object, on reasoned grounds relating to his or her particular situation, at any time to the processing of personal data concerning him or her which is based on point (...) (f) of Article 6(1); the personal data shall no longer be processed ~~unless the controller demonstrates (...) legitimate grounds for the processing which override the interests or (...) rights and freedoms of the data subject.~~

*New 1a. Where the data subject objects on the ground that the personal data have been collected at the time when the data subject was minor, the personal data shall no longer be processed.*

(...)

*1ab. Where the controller intends to further process the data on the basis of Article 6, paragraph 4 for other purposes than the one for which the data were collected, the possibility of the right to object shall be brought explicitly to the attention of the data subject and where an objection is upheld, the personal data shall no longer be processed.*

(...)

*2b. Where personal data are processed on the basis of point (i) of Article 9(2), the data subject shall have the right to object at any time to the processing of personal data concerning him or her, unless the processing is necessary for the performance of a task carried out for reasons of public interest. This right shall be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information and where an objection is upheld, the personal data shall no longer be processed.*

(...)

## Article 20

### Profiling

(...)

- 1b. In cases referred to in paragraph 1a) the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, such as follows:

a) the right for the data subject to know which data are used and the general logic applied by such automated processing ; and

b) the right to obtain human intervention on the part of the controller, to express his or her point of view prior to the taking of the decision and to contest the decision

(...)

+ Corresponding recital 58 and 58a:

“Such processing includes also ‘profiling’ intended to ~~create or~~ use a profile, that is a set of data characterising a category of individuals to evaluate personal aspects relating to a natural person, in particular to analyse or predict aspects concerning performance at work, economic situation, health, personal preferences, or interests, reliability or behaviour, location or movements.”

+ Corresponding recital 58a:

The ~~creation or~~ use of a profile, i.e. a set of data characterising a category of individuals that is applied or intended to be applied to a natural person as such is subject to the (general) rules of this Regulation governing processing of personal data (legal grounds of processing, data protection principles etc.) with specific safeguards (for instance the obligation to conduct an impact assessment in some cases or provisions concerning specific information to be provided to the concerned individual).