Council of the European Union

Brussels, 20 September 2018
(OR. en)

12321/1/18
REV 1

Interinstitutional File:
2018/0336(COD)

INST 333
PE 114
FIN 683
CODEC 1499
DATAPROTECT 185

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	18 September 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 636 final/2
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament *A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018*

Delegations will find attached document COM(2018) 636 final/2.

Encl.: COM(2018) 636 final/2

EUROPEAN
COMMISSION

Brussels, 12.9.2018
COM(2018) 636 final/2

2018/0336 (COD)

CORRIGENDUM

This document corrects document COM(2018) 636 final of 12.9.2018

Concerns English, French and German language versions

Correction of the Procedure number

The text shall read as follows:

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Democracy is one of the fundamental values on which the European Union is founded. To ensure the functioning of a representative democracy at the European level, the Treaties determine that the citizens of the European Union are directly represented in the European Parliament.

Political parties fulfil an essential role in a representative democracy, creating a direct link between citizens and the political system, thereby enhancing the legitimacy of the system. According to Article 10 of the Treaty on European Union, "political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union". Article 12(2) of the Charter of Fundamental Rights of the European Union expresses the same principle.

In February 2018, the Commission issued a Recommendation[1] on enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament, addressed to Member States and to European and national political parties. It included calls on European political parties and national parties to increase transparency on their respective affiliation and links and called on those political parties to help raise citizens' awareness on the issues at stake at Union level and on how they intend to address them during the upcoming legislature.

In the EU, data protection is a fundamental right and the General Data Protection Regulation[2] sets strong rules to protect this fundamental right. In particular, personal data must be processed lawfully and fairly.

Online communication has the potential of allowing closer and direct interaction between political actors and European citizens. At the same, it brings an increased risk of unlawfully processing personal data of citizens in the electoral context. A number of recent events show that abuses of data protection rules can affect the democratic debate and free elections, including elections to the European Parliament.

In 2018, the Facebook/Cambridge Analytica case concerning the alleged unlawful processing of user personal data acquired from Facebook by the company Cambridge Analytica raised serious concerns on the impact of data protection infringements on electoral processes. Investigations are ongoing in relation to this particular case, *inter alia* by the UK Information Commissioner's Office, the data protection supervisory authority which is leading the European investigation in cooperation with other European data protection supervisory authorities. The Commission is in close contact with the data protection supervisory authorities and is following this process closely. The U.S. Federal Trade Commission has opened an investigation in the case. A series of hearings took place in the European Parliament on the case and its impact on individuals' personal data in the Union.

Regulation No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations[3] was introduced to increase the visibility, recognition, effectiveness, transparency and accountability of European political parties and their affiliated political foundations. In the light of this Regulation,

---

[1] Commission Recommendation (EU) 2018/234 of 14 February 2018 on enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament (OJ L 45, 17.2.2018, p. 40).

[2] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

[3] OJ L 317, 4.11.2014, p. 1.

European political parties and foundations satisfying a number of conditions were offered the opportunity to become European legal entities by registering at European level, thereby obtaining access to European financial support. These conditions include the respect, both in their programme and activities, of the values on which EU is founded – listed in Article 2 of the Treaty on European Union: respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights including the rights of people belonging to minorities. An independent Authority for European political parties and foundations ("the Authority") was created, for the purpose of registering, monitoring and, if necessary, imposing sanctions on European political parties and foundations, including to consider cases where such entities allegedly fail to respect these fundamental European values.

However, the existing rules do not allow to effectively dissuade and sanction abuses of data protection rules which may affect the democratic debate and free elections.

In order to ensure that the elections to the European Parliament take place under strong democratic rules and in full respect of the European values of democracy, rule of law and respect of fundamental rights, the Commission is proposing a targeted amendment to Regulation No 1141/2014. It aims to allow financial sanctions on European political parties or foundations that use infringements of data protection rules to deliberately influence or attempt to influence the outcome of elections to the European Parliament.

The proposal will also enable the Authority to operate in a smooth and effective manner, by ensuring that it has its own allocation of staff and that its Director becomes the appointing authority. This should allow the Authority to fully fulfil its tasks, including the new ones foreseen in this proposal, and to do so in an independent way. In parallel, in order to respond to the calls of the Authority for an increased number of staff and in view of the Authority's key role in the period closely preceding the elections to the European Parliament, the Commission is ready to immediately make available the 6 additional staff requested by the Authority, on a detachment basis, which will end once the permanent staffing arrangements would be in place.

The procedure for the elections to the European Parliament is in each Member State governed by its national provisions. Political parties fulfil an essential role in a representative democracy, creating a direct link between citizens and the political system. National and regional political parties put forward candidates and organise electoral campaigns. National authorities are in charge of monitoring the elections at national level. European political parties organise complementary campaigns at European level, including those for lead candidates for the role of President of the European Commission.

The amending Regulation, together with the Commission guidance on the application of Union data protection law in the electoral context[4], the Commission Recommendation on election cooperation networks, online transparency and protection against cybersecurity incidents and fighting disinformation campaigns in the context of elections to the European Parliament[5] and a Commission Communication on Securing free and fair European elections[6] adopted on the same day, forms part of a security package. It is a contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018.

The Recommendation encourages data protection supervisory authorities in compliance with applicable Union and national law, to inform immediately and proactively the Authority for European political parties and European political foundations of their decisions finding that a European political party, a European political foundation or another natural or legal person has

4 COM (2018) 638.
5 C (2018) 5949.
6 COM (2018) 637.

infringed applicable rules on protection of personal data. This information should be provided where it follows from that decision, or where there are otherwise reasonable grounds to believe, that the infringement is linked to political activities by a European political party or European political foundation in the context of elections to the European Parliament. The Recommendation also encourages Member States to apply appropriate sanctions on political parties and foundations at national and regional level for cases of infringements of rules on the protection of personal data being used with a view to influencing or attempting to influence the elections to the European Parliament.

The focused changes to Regulation No 1141/2014 should be in place before the 2019 elections to the European Parliament.

- **Consistency with other Union policies**

Since 25 May 2018, the General Data Protection Regulation[7] applies in all EU Member States. It sets high data protection standards that are fit for the digital economy and make organisations processing data – including European political parties and the European political foundations – more accountable and more responsible in how they deal with personal data.

In its Recommendation of 14 February 2018[8] on enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament, the Commission called on the competent national authorities to identify best practices in the identification, mitigation and management of risks to the electoral process form cyber-attacks and disinformation. In April 2018, the Commission organised a meeting with the electoral commissions of Member States to discuss, exchange best practices and raise awareness among national authorities of the issues of security, disinformation campaigns and the enforcement of electoral rules online.

In April 2018, the Commission published a Communication on "Tackling online disinformation"[9], which defined the roles and responsibilities of relevant stakeholders and formulated a set of actions, including strengthening the Commission's strategic communications response to disinformation.

This proposal is consistent with the Commission's proposal[10] for a Regulation concerning the respect for private life and the protection of personal data in electronic communications (e-Privacy Regulation) that reviews the existing e-privacy Directive[11] which will enhance transparency and widen the scope of protection beyond traditional telecom operators to include internet-based electronic communication services and which should be promptly adopted by the co-legislators.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 224 of the Treaty on the Functioning of the European Union, which states that "*the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the regulations governing political parties at*

---

7 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

8 Commission Recommendation (EU) 2018/234 of 14 February 2018 on enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament (OJ L 45 of 17 February 2018, p. 40).

9 COM(2018) 235 final.

10 COM (2017) 10 final.

11 Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

European level referred to in Article 10(4) of the Treaty on European Union and in particular the rules regarding their funding" as well as on Article 106a of the Treaty establishing the European Atomic Energy Community[12].

- **Subsidiarity**

Since the existing Regulation provides for an EU-level system, including a specific European legal personality for parties and foundations and funding from the EU budget, any shortcomings in this system can only be remedied through EU legislation. Action by Member States alone is therefore not a relevant option.

The proposed focused changes therefore fully comply with the principle of subsidiarity. The EU level is the only one at which rules governing the statute and funding of European political parties and European political foundations can be laid down. In setting out possible reform measures, the Commission has been careful to reflect the principles contained in Protocol No. 2 to the Treaties.

- **Proportionality**

As explained in Section 5, the targeted measures proposed do not go beyond what is necessary to achieve the long-term objective of developing and strengthening European democracy and the legitimacy of the EU Institutions.

The proposal complies with the principle of proportionality. The proposed sanctions are built on the regime set by Regulation 1141/2014, establishing proportionate sanctions. The proposed measures ensure that there is no double penalisation of the same behaviour: infringements of data protection rules will be penalised by the competent data protection supervisory authorities established by the General Data Protection Regulation. The behaviour sanctioned by this proposal is the taking advantage of infringements of data protection rules to deliberately influence or to attempt to influence the elections to the European Parliament. The Authority will not impose sanctions on infringements of data protection rules as such.

- **Choice of the instrument**

Only a Regulation can amend an existing Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

In preparing the current proposal, the Commission took into account the calls expressed during the debates and hearings in the European Parliament regarding the Facebook/Cambridge Analytica case, which concerned allegations of use of Facebook' users' data by Cambridge Analytica and its impact on the protection of individual's personal data in the Union (hearings of 4 June 2018, 25 June 2018 and 2 July 2018).

Such debates and hearings brought to light that the use of misleading and manipulative techniques of micro targeting, aiming at unfairly influencing the result of polls, are closely connected to the question of illegal transfer and processing of personal data. EU rules already ensure the effective protection of personal data.

- **Impact assessment**

[12] https://europa.eu/european-union/sites/europaeu/files/docs/body/consolidated_version_of_the_treaty_establishing_the_european_atomic_energy_community_en.pdf

This proposal is not accompanied by a specific impact assessment. It is not expected to have wider significant economic, social and environmental impacts. The proposed changes build on the existing verification and sanctions regimes established by Regulation No 1141/2014.

- **Fundamental rights**

Article 2 of the Treaty on European Union (TEU) provides that "*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.*"

Article 10(1) and (2) TEU provide that "*The functioning of the Union shall be founded on representative democracy*" and that "*Citizens are directly represented at Union level in the European Parliament*". Subparagraph 4 of the same provision stipulates: "*political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union*". Articles 11 and 12 of the Charter of Fundamental Rights of the EU enshrine the right to freedom of expression and of association. Article 7 of the Charter of Fundamental Rights of the European Union reads that *"Everyone has the right to respect for his or her private and family life, home and communications*". Article 8 of the Charter of Fundamental Rights of the European Union reads that *"(1) Everyone has the right to the protection of personal data concerning him or her. (2) Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. (3) Compliance with these rules shall be subject to control by an independent authority."*

The amendments which are the subject of this proposal pursue the objectives of these provisions, and are compatible with and give effect to the fundamental rights guaranteed by Articles 7, 8 and 12 of the Charter.

4. BUDGETARY IMPLICATIONS

In order for this proposal to be effective, as it adds tasks to the Authority, there needs to be a more permanent staffing arrangement for the Authority. The budgetary implications are detailed in the Legislative Financial Statement attached to this proposal. More permanent staffing provisions should be made through the redeployment of existing resources, and will require the modification of the establishment plans of the contributing Institutions. Therefore, these elements should be included in the forthcoming Amending Letter to Draft Budget 2019. Given the size of the Authority, a separate establishment plan in not necessary, but a footnote detailing the size and nature of the staffing shall be entered in the Section I – European Parliament.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

In order to sanction financially European political parties or foundations using infringements of data protection rules to deliberately influence or attempt to influence the outcome of elections to the European Parliament, the Commission proposes the following targeted changes to the Regulation:

It is proposed to create a verification procedure related to infringements of rules on the protection of personal data which would require the Authority to trigger an opinion of the committee of independent eminent persons, shortly after a decision by a competent data protection supervisory authority. The committee's opinion – to be delivered within a short deadline set by the Authority –

would assess whether such infringement was used to deliberately influence or attempt to influence the outcome of elections to the European Parliament. The triggering of this new procedure does not prevent the triggering of the procedure of verification of compliance with registration conditions and requirements set out in the Article 10 of the Regulation for cases of manifest and serious breaches by the European political parties or foundations of the values on which the Union is founded. The new procedure would be introduced by the insertion of a new Article 10a.

To ensure such procedure can be triggered at any moment, including close to the date of elections to the European Parliament, it is proposed to clarify that the time limitations of the procedure of verification of compliance with registration conditions and requirements set in Article 10 do not apply to it, by amending the third sub-paragraph of Article 10(3).

Article 11, on the committee of independent eminent persons, will be amended to expressly refer to the opinion on the influencing of the outcome of elections to the European Parliament.

A new ground for financial sanctions will be added in Article 27 in the case the opinion of the committee of independent eminent persons finds that a European political party or a foundation has deliberately influenced or attempted to influence the outcome of elections of the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data.

This new ground will be added to the list of infringements which prevent a European political party or foundation to apply for funding from the general budget of the European Union in the year when the sanction was imposed. This will be done by amending Article 18.

Since the new verification procedure is triggered by a decision of a competent data protection supervisory authority, it is proposed to allow for the review of the sanction if the competent data protection supervisory authority's decision is repealed or where a remedy against such decision has been successful, by adding a new paragraph in Article 27.

Finally, in order to enable the Authority to operate in an independent and effective manner, the Commission is proposing the Authority to be staffed in a permanent way and to confer the powers of an appointing authority on the Director of the Authority, by amending paragraph 5 of Article 6.

2018/0336 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 224 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular, Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[13],

Having regard to the opinion of the Committee of the Regions[14],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU, Euratom) No 1141/2014[15] established a specific European legal status for European political parties and European political foundations and provides for their funding from the general budget of the European Union, it also establishes an Authority for European political parties and European political foundations ("the Authority").

(2) In order to enable the Authority to fully fulfil its tasks, including the new ones foreseen in this Regulation, and to do so in an independent manner, it is necessary to staff it in a permanent way and to confer the powers of an appointing authority on the Director of the Authority.

(3) Recent events have demonstrated the potential risks to electoral processes and democracy that can arise from the unlawful use of personal data. It is therefore necessary to protect the integrity of the European democratic process by providing for financial sanctions in situations where European political parties and European political foundations take

[13] OJ C , , p. .

[14] OJ C , , p. .

[15] Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L317, 4.11.2014, p. 1).

advantage of infringements of data protection rules with a view to influencing the outcome of elections to the European Parliament.

(4) To that end, a verification procedure should be established whereby the Authority must, in certain circumstances, ask the committee of independent eminent persons to assess whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data. Where the committee finds that to be the case, the Authority should impose sanctions in line with the effective, proportionate and dissuasive sanctioning system established by the Regulation (EU, Euratom) No 1141/2014.

(5) The new procedure should exist alongside the current procedures used for verification of compliance with registration conditions and in cases of manifest and serious breaches of the values on which the Union is founded. However, the time limits for verification of compliance with registration conditions and requirements set in Article 10 of Regulation (EU, Euratom) No 1141/2014 should not apply to the new procedure.

(6) Since the new procedure is triggered by a decision of a competent data protection supervisory authority, it should be possible for the European political party or European political foundation concerned to request that the sanction be reviewed if the decision of the supervisory authority is repealed or a remedy against that decision is successful.

(7) In order to ensure that the 2019 elections to the European Parliament take place under strong democratic rules and in full respect of the European values of democracy, rule of law and respect of fundamental rights it is important that the proposed verification procedure enters into force in timely manner and is applicable as soon as possible. In order to achieve this the proposed amendments to Regulation (EU, Euratom) No 1141/2014 introduced by this Regulation should enter into force on a date of its publication in the *Official Journal of the European Union*.

(8) Regulation (EU, Euratom) No 1141/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU, Euratom) No 1141/2014 is amended as follows:

(1) Article 6(5) is replaced by the following:

‘The Director of the Authority shall be assisted by staff, with respect to which he shall exercise the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants on the authority empowered to conclude a contract of employment of other servants (‘the appointing authority powers’).[16] The Authority may make use in any areas of its work of other seconded national experts or other staff not employed by the Authority.

[16] Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, (OJ P 045 14.6.1962, p. 1385)

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Authority.'

(2) In Article 10(3) the following sentence is added at the end of the third subparagraph:

"That time limitation shall not apply with regard to the procedure set out in Article 10a.";

(3) the following Article 10a is inserted:

"Article 10a

Verification procedure related to infringements of rules on the protection of personal data

If the Authority becomes aware of a decision of a supervisory authority within the meaning of point 21 of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council[17] finding that a natural or legal person has infringed applicable rules on the protection of personal data and if it follows from that decision, or where there are otherwise reasonable grounds to believe, that the infringement is linked to political activities by a European political party or a European political foundation in the context of elections to the European Parliament, the Authority shall refer this matter to the committee of independent eminent persons established by Article 11. The committee shall give an opinion as to whether the European political party or the European political foundation concerned has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of that infringement. The Authority shall request the opinion without undue delay and no later than 1 month after the decision of the supervisory authority. The committee shall deliver its opinion within a short, reasonable deadline set by the Authority.

The procedure set out in this Article is without prejudice to the procedure set in Article 10.";

(4) in Article 11(3), the second sentence of the first subparagraph is replaced by the following:

"When requested by the Authority, the committee shall give an opinion on whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data. In both cases the committee may request any relevant document and evidence from the Authority, the European Parliament, the European political party or European political foundation concerned, other political parties, political foundations or other stakeholders, and it may request to hear their representatives. In the case of opinions on whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data, the supervisory authorities referred to in the Article 10(a) shall cooperate with the committee in accordance with applicable law."

(5) in Article 18(2), the words "and in point (a) (v) and (vi) of Article 27(2)" are replaced by the words" and in point (a) (v), (vi) and (vii) of Article 27(2)";

(6) Article 27 is amended as follows:

(a) in point (a) of paragraph (2), the following point (vii) is added:

[17] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5. 2016, p. 1).

"(vii) where, in accordance with Article 10a, the committee issues an opinion finding that a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data.";

(b) the following paragraph 7 is added:

"7. Where a decision of the supervisory authority as referred to in Article 10a has been repealed or where a remedy against such decision has been successful, the Authority shall review any sanction imposed pursuant to point (a)(vii) of paragraph 2 at the request of the European political party or European political foundation concerned."

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned in the ABM/ABB structure

1.3. Nature of the proposal/initiative

1.4. Objective(s)

1.5. Grounds for the proposal/initiative

1.6. Duration and financial impact

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

3.2.2. Estimated impact on operational appropriations

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

1.2. Policy area(s) concerned

Fundamental rights

1.3. The proposal relates to

☐ **a new action**

☐ **a new action following a pilot project/preparatory action**[18]

X **the extension of an existing action**

☐ **a merger of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

Recent events have demonstrated the potential risks to electoral processes and democracy that can arise from the unlawful use of personal data. It is therefore necessary to protect the integrity of the European democratic process by providing for financial sanctions in situations where European political parties and European political foundations take advantage of infringements of data protection rules with a view to influencing the outcome of elections to the European Parliament.

1.4.2. Specific objective(s)

A verification procedure should be established whereby the Authority established by Article 6 of Regulation (EU, Euratom) No 1141/2014 ("the Authority") must, in certain circumstances, ask the committee of independent eminent persons to assess whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data. Where the committee finds that to be the case, the Authority should impose sanctions in line with the effective, proportionate and dissuasive sanctioning system established by the Regulation (EU, Euratom) No 1141/2014.

It is necessary that the Authority has sufficent resources fully to complete its tasks, both those provided for by the existing Regulation (EU, Euratom) No 1141/2014 and the new ones envisaged by the present amending proposal. This requires stable staffing and strengthening of the human resources currently provided to the Authority.

1.4.3. .Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

[18] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

The proposal aims to deter European political parties and foundations from making use of the results of infringements of data protection rules with a view to deliberately influencing the outcome of elections to the European Parliament by providing for financial sanctions for any such improper behaviour.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

Sanctions should be imposed in good time on any European political party or foundation found to have taken advantage of infringements of data protection rules with a view to deliberately influencing the outcome of elections to the European Parliament.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The above-mentioned sanctions regime should be in place well before the elections to the European Parliament of 2019 in order to deter the improper actions decribed. To make this operational, and to ensure the Authority is fully equipped effectively to manage all its task, additional human resources should be provided as soon as practicable, and in the first instance through the redeployment of resources carrying out these tasks prior to the creation of the Authority.

To simplify and provide greater independence for its operations, the powers of the appointing authority under the Staff Regulations and the Conditions of Employment of Other Servants [Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1)] should be delegated to the Director of the Authority.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

This proposal concerns the system for European political parties and European political foundations established at European level. Pursuant to Regulation (EU, Euratom) No 1141/2014, these are bodies with European legal personality. The Authority is also a body with legal personality under Union law. It is therefore only via action at Union level that the objectives described above can be pursued.

The proposal will have achieved its goals if either (a) the proposed sanctions regime deters any European political party or foundation from improperly using the results of infringements of rules on protection of personal data or (b) any such acts that do take place are duly sanctioned.

The Authority should be in a position to fully undertake all its duties, in particular in the run-up and aftermath of the European electoral period of 2019.

1.5.3. Lessons learned from similar experiences in the past

The Authority's first annual report, for 2017, states that "The APPF [the Authority] currently comprises two full-time employees and the Director. More precisely, in November 2016, the European Parliament seconded an administrative assistant to support the Director in setting up the APPF and the registration process of EU parties and

foundations. In June 2017, a legal advisor joined the APPF to provide advice on procedural, substantive and financial matters. At this stage, the entirety of the staff of the APPF is provided by the European Parliament. The current number of staff is insufficient for the APPF to properly carry out the tasks conferred on it by Regulation (EU, Euratom) No 1141/2014. Moreover, that lack of staff is also capable of affecting the independence and business continuity of the APPF."

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The present proposal would not imply any change to the ceiling of administrative spending for the Union institutions provided for in the Multiannaul Financial Framework.

1.5.5. Assessment of the different available financing options, including scope for redeployment

The proposed increase in staffing for the Authority will be met first and foremost by redeployment of existing resources.

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

– ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY

X unlimited duration

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Management mode(s) planned[19]

X Direct management by the European Parliament through the Authority

– ☐ executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ international organisations and their agencies (to be specified);

☐the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

[19] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx.

Comments

The Authority is financed from a specific budget title (Title 5) of the European Parliament. The number and composition of the staff shall be indicated in the budgetary remarks of the specific title. The duties of the Authorising Officer of the European Parliament are delegated to the Director of the Authority according to point 7 of Article 6 of Regulation (EU, Euratom) No 1141/2014.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Authority will continue to issue an annual activity report under Article 10 of Regulation (EU, Euratom) No 1141/2014. The European Parliament will report on the financial operations involved as part of the Union's annual accouting cycle.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

Given the specific set-up of the Authority (an independent body, but whose budget is part of the budget of the European Parliament) the steps proposed are the only logical ones in the light of the requirments set out above.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

The financial risks are the same as for any other part of the adminsitrative expenditure of the Union institutions and in this case would be covered by the existing internal control system of the European Parliament.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

No new internal control system is proposed and the additional burden of these changes to the European Parliament's internal control system are not significant.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The European Parliament's existing provisions for its administrative expenditure would apply to that set out here.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[20]	from EFTA countries[21]	from candidate countries[22]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
5	Section I – European Parliament	Diff./Non-diff.	NO	NO	NO	NO

[20] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

[21] EFTA: European Free Trade Association.

[22] Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

Heading of multiannual financial framework	**5**	'Administrative expenditure'

EUR million (to three decimal places)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
European Parliament									
• Human Resources		1.43	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**
• Other administrative expenditure									
TOTAL European Parliament	Appropriations	1.43	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	1.43	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**

EUR million (to three decimal places)

		Year **N**[23]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	1.43	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**
	Payments	1.43	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**

[23] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.2.2. Estimated impact on [body]'s appropriations

– X The proposal/initiative does not require the use of operational appropriations

– ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			Year **N**		Year **N+1**		Year **N+2**		Year **N+3**		Enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
	OUTPUTS																	
	Type[24]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[25]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

24 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

25 As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. Estimated impact on the Authority's human resources

The resources set our below are the same ones as set out in section 3.2.1 above; they are repeated here for the sake of clarity that all the resources concerned are for the Authority.

3.2.3.1. Summary

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– X The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year N [26]	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
Officials/Temporary Agents (AD Grades)	0.715	0.715	0.715	0.715	0.715	0.715	0.715	0.715
Officials/Temporary agents (AST grades)	0.715	0.715	0.715	0.715	0.715	0.715	0.715	0.715
Contract staff								
Seconded National Experts								
TOTAL	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**1.43**	**10.01**

Staff requirements (FTE):

	Year N [27]	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
Officials/Temporary Agents (AD Grades)	5	5	5	5	5	5	**5**	**5**
Officials/Temporary agents (AST grades)	5	5	5	5	5	5	**5**	**5**
Contract staff								
Seconded National Experts								

[26] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

[27] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

TOTAL	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**70**

The human resources required will be met by staff from the Institutions who are already assigned to management of the action and/or have been redeployed within the Institution, together if necessary with any additional allocation which may be granted to the managing Institution under the annual budget procedure and in the light of budgetary constraints.

3.2.4. Compatibility with the current multiannual financial framework

– X The proposal/initiative is compatible the current multiannual financial framework.

– ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. […]

– ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework[28].

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts. […]

3.2.5. Third-party contributions

– The proposal/initiative does not provide for co-financing by third parties.

[28] See Articles 11 and 17 of Council Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020.

3.3. Estimated impact on revenue

– X The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

☐ please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[29]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

[…]

Specify the method for calculating the impact on revenue.

[…]

[29] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.