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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14706/21
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data - European Parliament's position at first reading (draft amendments)

On 15 March 2023, the European Parliament adopted its decision to enter interinstitutional negotiations based on the LIBE report voted on 1 March 2023.

For convenience of delegations, the report is reproduced in the Annex.

European Parliament
2019-2024

Plenary sitting

A9-0041/2023

3.3.2023

***I
REPORT

on the proposal for a directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data
(COM(2021)0767 – C9-0441/2021 – 2021/0399(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Patryk Jaki

PR_COD_1amCom

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data
(COM(2021)0767 – C9-0441/2021 – 2021/0399(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0767),

– having regard to Article 294(2) and Article 16(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0441/2021),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0041/2023),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission	*Amendment*
(1) Directive (EU) 2016/680 of the European Parliament and of the Council[9] provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or	(1) Directive (EU) 2016/680 of the European Parliament and of the Council[9] provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or

prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to public security. The Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.	prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to public security. ***That Directive requires Member States to process personal data in a manner that ensures appropriate security of the personal data.*** The Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.
[9] Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).	[9] Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

Amendment 2

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) Directive (EU) 2016/680, Regulation (EU) 2016/794[1a] and Regulation (EU) 2018/1725[1b] of the European Parliament and of the Council provide for safeguards for the transfer of personal data between Member States and Europol, in order to ensure the uniform and consistent protection of natural persons with regard to the processing of their personal data.

[1a] *Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).*

[1b] *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

Amendment 3

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission	*Amendment*
	(3b) Given the recent amendment of Regulation (EU) 2016/794, particular attention should be paid to the data protection rules and safeguards laid down therein. Europol's Management Board is to specify the conditions relating to the provisions and processing of personal data in accordance with the amending Regulation (EU) 2022/991 of the European Parliament and of the Council[1a], in order to effectively limit the impact of the data processing activities on individuals.

[1a] *Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation*

	(EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation (OJ L 169, 27.6.2022, p. 1).

Amendment 4

Proposal for a directive
Recital 6

Text proposed by the Commission	*Amendment*
(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council[11] and delivered an opinion on ***XX/XX 20XX,***	(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council[11] and delivered an opinion on ***25 January 2022.***
[11] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).	[11] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 5

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point -a
Decision 2005/671/JHA
Article 2 – title

Present text	*Amendment*
	(-a) the title is replaced by the following:
Provision of information concerning terrorist offences to ***Eurojust,*** Europol and	"Provision of information concerning terrorist offences to Europol and the

the Member States	Member States"

Amendment 6

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point a
Decision 2005/671/JHA
Article 2 – paragraph 3 – subparagraph 1a

Text proposed by the Commission	*Amendment*
Each Member State shall ensure that personal data is processed pursuant to the first subparagraph only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences.	Each Member State shall ensure that personal data is processed pursuant to the first subparagraph only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences ***in compliance with Union law on data protection***.

Amendment 7

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point b
Decision 2005/671/JHA
Article 2 – paragraph 4 – subparagraph 1a

Text proposed by the Commission	*Amendment*
The categories of personal data to be transmitted to Europol for the purposes referred to in paragraph 3 shall remain limited to those referred to in Section B, point 2, of Annex II to Regulation (EU) 2016/794.	The categories of personal data to be transmitted to Europol for the purposes referred to in paragraph 3 shall remain limited to those referred to in Section B, point 2, of Annex II to Regulation (EU) 2016/794. ***In order to ensure the uniform and consistent protection of natural persons with regard to the processing of their personal data, such data shall be transferred in compliance with the security requirements laid down in Article 32 of that Regulation***.

Amendment 8

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point c

Decision 2005/671/JHA
Article 2 – paragraph 6 – subparagraph 1a

Text proposed by the Commission	*Amendment*
The categories of personal data that may be exchanged between Member States for the purposes referred to in the first subparagraph shall remain limited to those specified in Section B, point 2, of Annex II to Regulation (EU) 2016/794.	The categories of personal data that may be exchanged between Member States for the purposes referred to in the first subparagraph, shall remain limited to those specified in Section B, point 2, of Annex II to Regulation (EU) 2016/794. ***Where such exchange takes place, it shall be pursued in accordance with the security requirements, safeguards and data protection guarantees set out in Union law on data protection.***

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data
References	COM(2021)0767 – C9-0441/2021 – 2021/0399(COD)
Date submitted to Parliament	1.12.2021
Committee responsible Date announced in plenary	LIBE 17.1.2022
Rapporteurs Date appointed	Patryk Jaki 20.4.2022
Discussed in committee	5.9.2022
Date adopted	1.3.2023
Result of final vote	+: 64 –: 0 0: 0
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Malik Azmani, Katarina Barley, Pietro Bartolo, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Patricia Chagnon, Caterina Chinnici, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Erik Marquardt, Nuno Melo, Maite Pagazaurtundúa, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Sara Skyttedal, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Milan Uhrík, Tom Vandendriessche, Jadwiga Wiśniewska, Javier Zarzalejos
Substitutes present for the final vote	Susanna Ceccardi, Gwendoline Delbos-Corfield, Loucas Fourlas, Beata Kempa, Philippe Olivier, Dragoş Tudorache, Petar Vitanov, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Gheorghe Falcă, Jean-François Jalkh, Petra Kammerevert, Marisa Matias, Martina Michels, Ljudmila Novak, Stanislav Polčák, Mick Wallace, Bernhard Zimniok
Date tabled	6.3.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

64	+
ECR	Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska
ID	Susanna Ceccardi, Patricia Chagnon, Jean-François Jalkh, Philippe Olivier, Annalisa Tardino, Tom Vandendriessche, Bernhard Zimniok
NI	Milan Uhrík
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Gheorghe Falcă, Loucas Fourlas, Andrzej Halicki, Jeroen Lenaers, Nuno Melo, Ljudmila Novak, Stanislav Polčák, Karlo Ressler, Sara Skyttedal, Tomas Tobé, Javier Zarzalejos, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom, Dragoş Tudorache
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Petra Kammerevert, Łukasz Kohut, Juan Fernando López Aguilar, Birgit Sippel, Petar Vitanov
The Left	Clare Daly, Marisa Matias, Martina Michels, Mick Wallace
Verts/ALE	Patrick Breyer, Saskia Bricmont, Gwendoline Delbos-Corfield, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

0	-

0	0

Key to symbols:
+ : in favour
- : against
0 : abstention