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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	7257/21
No. Cion doc.:	5678/21
Subject:	Draft Directive of the European Parliament and of the Council amending Directive 2014/41/EU, as regards its alignment with EU rules on the protection of personal data - Text as agreed at Working Party level

Please find attached the text of the above-mentioned draft Directive, as agreed by the members of the Working Party on Judicial Cooperation in Criminal Matters (COPEN).

The main differences compared to the Commission proposal (5678/21) have been indicated by **bold** and underlined characters, and by **[…]**.

ANNEX

(Draft)

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (EU) 2021/[…]

of

amending Directive 2014/41/EU, as regards its alignment with EU rules on the protection of personal data

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 Articles 16(2) **and 82** thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Pursuant to Article 62(6) of Directive (EU) 2016/680[1], the Commission is to review other acts of Union law which regulate the processing of personal data by the competent authorities for the purposes set out in Article 1(1) of that Directive, in order to assess the need to align those acts with that Directive and to make, where appropriate, the necessary proposals to amend those acts in order to ensure a consistent approach to the protection of personal data within the scope of that Directive. That review has led to the identification of Directive 2014/41/EU[2] as one of those other acts to be amended.

(2) In the interests of consistency and the effective protection of personal data, the processing of personal data under Directive 2014/41/EU should respect the rules set out in Directive (EU) 2016/680, where relevant. Regulation (EU) 2016/679[3] should apply to the processing of personal data in relation to proceedings as referred to in Article 4, points (b), (c) and (d) of Directive 2014/41/EU where those proceedings are not covered by Directive (EU) 2016/680.

(3) In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application. **[…]**

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1 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).

2 Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (*OJ L 130, 1.5.2014, p. 1).*

3 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).

(4) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725[4] and delivered an opinion on **10 March 2021**.[5]

(5) Directive 2014/41/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

[4] 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).

[5] [Letter of 10 March 2021 (6697/21)]

Article 1

Amendment to Directive 2014/41/EU

Article 20 of Directive 2014/41/EU is deleted.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within a period of one year from the date of its entry into force. They shall immediately inform the Commission thereof.

   When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

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