

## SECTION 4 DATA PROTECTION OFFICER

### *Article 35*

#### *Designation of the data protection officer*

1. The controller and the processor shall designate a data protection officer in any case where:
  - (a) the processing is carried out by a public authority or body; or
  - (b) the processing is carried out by an enterprise employing 250 persons or more; or
  - (c) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects.
2. In the case referred to in point (b) of paragraph 1, a group of undertakings may appoint a single data protection officer.
3. Where the controller or the processor is a public authority or body, the data protection officer may be designated for several of its entities, taking account of the organisational structure of the public authority or body.
4. In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may designate a data protection officer.
5. The controller or processor shall designate the data protection officer on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and ability to fulfil the tasks referred to in Article 37. The necessary level of expert knowledge shall be determined in particular according to the data processing carried out and the protection required for the personal data processed by the controller or the processor.
6. The controller or the processor shall ensure that any other professional duties of the data protection officer are compatible with the person's tasks and duties as data protection officer and do not result in a conflict of interests.
7. The controller or the processor shall designate a data protection officer for a period of at least two years. The data protection officer may be reappointed for further terms. During their term of office, the data protection officer may only be dismissed, if the data protection officer no longer fulfils the conditions required for the performance of their duties.
8. The data protection officer may be employed by the controller or processor, or fulfil his or her tasks on the basis of a service contract.
9. The controller or the processor shall communicate the name and contact details of the data protection officer to the supervisory authority and to the public.

10. Data subjects shall have the right to contact the data protection officer on all issues related to the processing of the data subject's data and to request exercising the rights under this Regulation.
11. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the core activities of the controller or the processor referred to in point (c) of paragraph 1 and the criteria for the professional qualities of the data protection officer referred to in paragraph 5.

#### *Article 36*

##### *Position of the data protection officer*

1. The controller or the processor shall ensure that the data protection officer is properly and in a timely manner involved in all issues which relate to the protection of personal data.
2. The controller or processor shall ensure that the data protection officer performs the duties and tasks independently and does not receive any instructions as regards the exercise of the function. The data protection officer shall directly report to the management of the controller or the processor.
3. The controller or the processor shall support the data protection officer in performing the tasks and shall provide staff, premises, equipment and any other resources necessary to carry out the duties and tasks referred to in Article 37.

#### *Article 37*

##### *Tasks of the data protection officer*

1. The controller or the processor shall entrust the data protection officer at least with the following tasks:
  - (a) to inform and advise the controller or the processor of their obligations pursuant to this Regulation and to document this activity and the responses received;
  - (b) to monitor the implementation and application of the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, the training of staff involved in the processing operations, and the related audits;
  - (c) to monitor the implementation and application of this Regulation, in particular as to the requirements related to data protection by design, data protection by default and data security and to the information of data subjects and their requests in exercising their rights under this Regulation;
  - (d) to ensure that the documentation referred to in Article 28 is maintained;
  - (e) to monitor the documentation, notification and communication of personal data breaches pursuant to Articles 31 and 32;

- (f) to monitor the performance of the data protection impact assessment by the controller or processor and the application for prior authorisation or prior consultation, if required pursuant Articles 33 and 34;
  - (g) to monitor the response to requests from the supervisory authority, and, within the sphere of the data protection officer's competence, co-operating with the supervisory authority at the latter's request or on the data protection officer's own initiative;
  - (h) to act as the contact point for the supervisory authority on issues related to the processing and consult with the supervisory authority, if appropriate, on his/her own initiative.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for tasks, certification, status, powers and resources of the data protection officer referred to in paragraph 1.

## **SECTION 5**

### **CODES OF CONDUCT AND CERTIFICATION**

#### *Article 38* *Codes of conduct*

1. The Member States, the supervisory authorities and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation, taking account of the specific features of the various data processing sectors, in particular in relation to:
- (a) fair and transparent data processing;
  - (b) the collection of data;
  - (c) the information of the public and of data subjects;
  - (d) requests of data subjects in exercise of their rights;
  - (e) information and protection of children;
  - (f) transfer of data to third countries or international organisations;
  - (g) mechanisms for monitoring and ensuring compliance with the code by the controllers adherent to it;
  - (h) out-of-court proceedings and other dispute resolution procedures for resolving disputes between controllers and data subjects with respect to the processing of personal data, without prejudice to the rights of the data subjects pursuant to Articles 73 and 75.
2. Associations and other bodies representing categories of controllers or processors in one Member State which intend to draw up codes of conduct or to amend or extend

*existing* codes of conduct may submit them to an opinion of the supervisory authority in that Member State. The supervisory authority may give an opinion whether the draft code of conduct or the amendment is in compliance with this Regulation. The supervisory authority shall seek the views of data subjects or their representatives on these drafts.

3. Associations and other bodies representing categories of controllers in several Member States may submit draft codes of conduct and amendments or extensions to existing codes of conduct to the Commission.
4. The Commission may adopt implementing acts for deciding that the codes of conduct and amendments or extensions to existing codes of conduct submitted to it pursuant to paragraph 3 have general validity within the Union. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).
5. The Commission shall ensure appropriate publicity for the codes which have been decided as having general validity in accordance with paragraph 4.

#### *Article 39* **Certification**

1. The Member States and the Commission shall encourage, in particular at European level, the establishment of data protection certification mechanisms and of data protection seals and marks, allowing data subjects to quickly assess the level of data protection provided by controllers and processors. The data protection certifications mechanisms shall contribute to the proper application of this Regulation, taking account of the specific features of the various sectors and different processing operations.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the data protection certification mechanisms referred to in paragraph 1, including conditions for granting and withdrawal, and requirements for recognition within the Union and in third countries.
3. The Commission may lay down technical standards for certification mechanisms and data protection seals and marks and mechanisms to promote and recognize certification mechanisms and data protection seals and marks. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

## **CHAPTER V**

### **TRANSFER OF PERSONAL DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS**

#### *Article 40*

#### ***General principle for transfers***

Any transfer of personal data which are undergoing processing or are intended for processing after transfer to a third country or to an international organisation may only take place if, subject to the other provisions of this Regulation, the conditions laid down in this Chapter are complied with by the controller and processor, including for onward transfers of personal data from the third country or an international organisation to another third country or to another international organisation.

#### *Article 41*

#### ***Transfers with an adequacy decision***

1. A transfer may take place where the Commission has decided that the third country, or a territory or a processing sector within that third country, or the international organisation in question ensures an adequate level of protection. Such transfer shall not require any further authorisation.
2. When assessing the adequacy of the level of protection, the Commission shall give consideration to the following elements:
  - (a) the rule of law, relevant legislation in force, both general and sectoral, including concerning public security, defence, national security and criminal law, the professional rules and security measures which are complied with in that country or by that international organisation, as well as effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred;
  - (b) the existence and effective functioning of one or more independent supervisory authorities in the third country or international organisation in question responsible for ensuring compliance with the data protection rules, for assisting and advising the data subjects in exercising their rights and for co-operation with the supervisory authorities of the Union and of Member States; and
  - (c) the international commitments the third country or international organisation in question has entered into.
3. The Commission may decide that a third country, or a territory or a processing sector within that third country, or an international organisation ensures an adequate level of protection within the meaning of paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

4. The implementing act shall specify its geographical and sectoral application, and, where applicable, identify the supervisory authority mentioned in point (b) of paragraph 2.
5. The Commission may decide that a third country, or a territory or a processing sector within that third country, or an international organisation does not ensure an adequate level of protection within the meaning of paragraph 2 of this Article, in particular in cases where the relevant legislation, both general and sectoral, in force in the third country or international organisation, does not guarantee effective and enforceable rights including effective administrative and judicial redress for data subjects, in particular for those data subjects residing in the Union whose personal data are being transferred. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2), or, in cases of extreme urgency for individuals with respect to their right to personal data protection, in accordance with the procedure referred to in Article 87(3).
6. Where the Commission decides pursuant to paragraph 5, any transfer of personal data to the third country, or a territory or a processing sector within that third country, or the international organisation in question shall be prohibited, without prejudice to Articles 42 to 44. At the appropriate time, the Commission shall enter into consultations with the third country or international organisation with a view to remedying the situation resulting from the Decision made pursuant to paragraph 5 of this Article.
7. The Commission shall publish in the *Official Journal of the European Union* a list of those third countries, territories and processing sectors within a third country and international organisations where it has decided that an adequate level of protection is or is not ensured.
8. Decisions adopted by the Commission on the basis of Article 25(6) or Article 26(4) of Directive 95/46/EC shall remain in force, until amended, replaced or repealed by the Commission.

#### *Article 42*

##### *Transfers by way of appropriate safeguards*

1. Where the Commission has taken no decision pursuant to Article 41, a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has adduced appropriate safeguards with respect to the protection of personal data in a legally binding instrument.
2. The appropriate safeguards referred to in paragraph 1 shall be provided for, in particular, by:
  - (a) binding corporate rules in accordance with Article 43; or
  - (b) standard data protection clauses adopted by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2); or

- (c) standard data protection clauses adopted by a supervisory authority in accordance with the consistency mechanism referred to in Article 57 when declared generally valid by the Commission pursuant to point (b) of Article 62(1); or
  - (d) contractual clauses between the controller or processor and the recipient of the data authorised by a supervisory authority in accordance with paragraph 4.
3. A transfer based on standard data protection clauses or binding corporate rules as referred to in points (a), (b) or (c) of paragraph 2 shall not require any further authorisation.
  4. Where a transfer is based on contractual clauses as referred to in point (d) of paragraph 2 of this Article the controller or processor shall obtain prior authorisation of the contractual clauses according to point (a) of Article 34(1) from the supervisory authority. If the transfer is related to processing activities which concern data subjects in another Member State or other Member States, or substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57.
  5. Where the appropriate safeguards with respect to the protection of personal data are not provided for in a legally binding instrument, the controller or processor shall obtain prior authorisation for the transfer, or a set of transfers, or for provisions to be inserted into administrative arrangements providing the basis for such transfer. Such authorisation by the supervisory authority shall be in accordance with point (a) of Article 34(1). If the transfer is related to processing activities which concern data subjects in another Member State or other Member States, or substantially affect the free movement of personal data within the Union, the supervisory authority shall apply the consistency mechanism referred to in Article 57. Authorisations by a supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid, until amended, replaced or repealed by that supervisory authority.

#### *Article 43*

#### ***Transfers by way of binding corporate rules***

1. A supervisory authority shall in accordance with the consistency mechanism set out in Article 58 approve binding corporate rules, provided that they:
  - (a) are legally binding and apply to and are enforced by every member within the controller's or processor's group of undertakings, and include their employees;
  - (b) expressly confer enforceable rights on data subjects;
  - (c) fulfil the requirements laid down in paragraph 2.
2. The binding corporate rules shall at least specify:
  - (a) the structure and contact details of the group of undertakings and its members;

- (b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question;
- (c) their legally binding nature, both internally and externally;
- (d) the general data protection principles, in particular purpose limitation, data quality, legal basis for the processing, processing of sensitive personal data; measures to ensure data security; and the requirements for onward transfers to organisations which are not bound by the policies;
- (e) the rights of data subjects and the means to exercise these rights, including the right not to be subject to a measure based on profiling in accordance with Article 20, the right to lodge a complaint before the competent supervisory authority and before the competent courts of the Member States in accordance with Article 75, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules;
- (f) the acceptance by the controller or processor established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member of the group of undertakings not established in the Union; the controller or the processor may only be exempted from this liability, in whole or in part, if he proves that that member is not responsible for the event giving rise to the damage;
- (g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in accordance with Article 11;
- (h) the tasks of the data protection officer designated in accordance with Article 35, including monitoring within the group of undertakings the compliance with the binding corporate rules, as well as monitoring the training and complaint handling;
- (i) the mechanisms within the group of undertakings aiming at ensuring the verification of compliance with the binding corporate rules;
- (j) the mechanisms for reporting and recording changes to the policies and reporting these changes to the supervisory authority;
- (k) the co-operation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, in particular by making available to the supervisory authority the results of the verifications of the measures referred to in point (i) of this paragraph.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for binding corporate rules within the meaning of this Article, in particular as regards the criteria for their approval, the application of points (b), (d), (e) and (f) of paragraph 2 to binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned.

4. The Commission may specify the format and procedures for the exchange of information by electronic means between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

*Article 44*  
**Derogations**

1. In the absence of an adequacy decision pursuant to Article 41 or of appropriate safeguards pursuant to Article 42, a transfer or a set of transfers of personal data to a third country or an international organisation may take place only on condition that:
  - (a) the data subject has consented to the proposed transfer, after having been informed of the risks of such transfers due to the absence of an adequacy decision and appropriate safeguards; or
  - (b) the transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request; or
  - (c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person; or
  - (d) the transfer is necessary for important grounds of public interest; or
  - (e) the transfer is necessary for the establishment, exercise or defence of legal claims; or
  - (f) the transfer is necessary in order to protect the vital interests of the data subject or of another person, where the data subject is physically or legally incapable of giving consent; or
  - (g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, to the extent that the conditions laid down in Union or Member State law for consultation are fulfilled in the particular case; or
  - (h) the transfer is necessary for the purposes of the legitimate interests pursued by the controller or the processor, which cannot be qualified as frequent or massive, and where the controller or processor has assessed all the circumstances surrounding the data transfer operation or the set of data transfer operations and based on this assessment adduced appropriate safeguards with respect to the protection of personal data, where necessary.
2. A transfer pursuant to point (g) of paragraph 1 shall not involve the entirety of the personal data or entire categories of the personal data contained in the register. When the register is intended for consultation by persons having a legitimate interest, the

transfer shall be made only at the request of those persons or if they are to be the recipients.

3. Where the processing is based on point (h) of paragraph 1, the controller or processor shall give particular consideration to the nature of the data, the purpose and duration of the proposed processing operation or operations, as well as the situation in the country of origin, the third country and the country of final destination, and adduced appropriate safeguards with respect to the protection of personal data, where necessary.
4. Points (b), (c) and (h) of paragraph 1 shall not apply to activities carried out by public authorities in the exercise of their public powers.
5. The public interest referred to in point (d) of paragraph 1 must be recognised in Union law or in the law of the Member State to which the controller is subject.
6. The controller or processor shall document the assessment as well as the appropriate safeguards adduced referred to in point (h) of paragraph 1 of this Article in the documentation referred to in Article 28 and shall inform the supervisory authority of the transfer.
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying 'important grounds of public interest' within the meaning of point (d) of paragraph 1 as well as the criteria and requirements for appropriate safeguards referred to in point (h) of paragraph 1.

#### *Article 45*

#### *International co-operation for the protection of personal data*

1. In relation to third countries and international organisations, the Commission and supervisory authorities shall take appropriate steps to:
  - (a) develop effective international co-operation mechanisms to facilitate the enforcement of legislation for the protection of personal data;
  - (b) provide international mutual assistance in the enforcement of legislation for the protection of personal data, including through notification, complaint referral, investigative assistance and information exchange, subject to appropriate safeguards for the protection of personal data and other fundamental rights and freedoms;
  - (c) engage relevant stakeholders in discussion and activities aimed at furthering international co-operation in the enforcement of legislation for the protection of personal data;
  - (d) promote the exchange and documentation of personal data protection legislation and practice.
2. For the purposes of paragraph 1, the Commission shall take appropriate steps to advance the relationship with third countries or international organisations, and in

particular their supervisory authorities, where the Commission has decided that they ensure an adequate level of protection within the meaning of Article 41(3).

## **CHAPTER VI**

### **INDEPENDENT SUPERVISORY AUTHORITIES**

#### **SECTION 1**

#### **INDEPENDENT STATUS**

##### *Article 46*

##### *Supervisory authority*

1. Each Member State shall provide that one or more public authorities are responsible for monitoring the application of this Regulation and for contributing to its consistent application throughout the Union, in order to protect the fundamental rights and freedoms of natural persons in relation to the processing of their personal data and to facilitate the free flow of personal data within the Union. For these purposes, the supervisory authorities shall co-operate with each other and the Commission.
2. Where in a Member State more than one supervisory authority are established, that Member State shall designate the supervisory authority which functions as a single contact point for the effective participation of those authorities in the European Data Protection Board and shall set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism referred to in Article 57.
3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to this Chapter, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

##### *Article 47*

##### *Independence*

1. The supervisory authority shall act with complete independence in exercising the duties and powers entrusted to it.
2. The members of the supervisory authority shall, in the performance of their duties, neither seek nor take instructions from anybody.
3. Members of the supervisory authority shall refrain from any action incompatible with their duties and shall not, during their term of office, engage in any incompatible occupation, whether gainful or not.
4. Members of the supervisory authority shall behave, after their term of office, with integrity and discretion as regards the acceptance of appointments and benefits.
5. Each Member State shall ensure that the supervisory authority is provided with the adequate human, technical and financial resources, premises and infrastructure necessary for the effective performance of its duties and powers, including those to

be carried out in the context of mutual assistance, co-operation and participation in the European Data Protection Board.

6. Each Member State shall ensure that the supervisory authority has its own staff which shall be appointed by and be subject to the direction of the head of the supervisory authority.
7. Member States shall ensure that the supervisory authority is subject to financial control which shall not affect its independence. Member States shall ensure that the supervisory authority has separate annual budgets. The budgets shall be made public.

#### *Article 48*

##### *General conditions for the members of the supervisory authority*

1. Member States shall provide that the members of the supervisory authority must be appointed either by the parliament or the government of the Member State concerned.
2. The members shall be chosen from persons whose independence is beyond doubt and whose experience and skills required to perform their duties notably in the area of protection of personal data are demonstrated.
3. The duties of a member shall end in the event of the expiry of the term of office, resignation or compulsory retirement in accordance with paragraph 5.
4. A member may be dismissed or deprived of the right to a pension or other benefits in its stead by the competent national court, if the member no longer fulfils the conditions required for the performance of the duties or is guilty of serious misconduct.
5. Where the term of office expires or the member resigns, the member shall continue to exercise the duties until a new member is appointed.

#### *Article 49*

##### *Rules on the establishment of the supervisory authority*

Each Member State shall provide by law within the limits of this Regulation:

- (a) the establishment and status of the supervisory authority;
- (b) the qualifications, experience and skills required to perform the duties of the members of the supervisory authority;
- (c) the rules and procedures for the appointment of the members of the supervisory authority, as well the rules on actions or occupations incompatible with the duties of the office;
- (d) the duration of the term of the members of the supervisory authority which shall be no less than four years, except for the first appointment after entry into force of this Regulation, part of which may take place for a shorter period

where this is necessary to protect the independence of the supervisory authority by means of a staggered appointment procedure;

- (e) whether the members of the supervisory authority shall be eligible for reappointment;
- (f) the regulations and common conditions governing the duties of the members and staff of the supervisory authority;
- (g) the rules and procedures on the termination of the duties of the members of the supervisory authority, including in case that they no longer fulfil the conditions required for the performance of their duties or if they are guilty of serious misconduct.

#### *Article 50* **Professional secrecy**

The members and the staff of the supervisory authority shall be subject, both during and after their term of office, to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their official duties.

## **SECTION 2** **DUTIES AND POWERS**

#### *Article 51* **Competence**

1. Each supervisory authority shall exercise, on the territory of its own Member State, the powers conferred on it in accordance with this Regulation.
2. Where the processing of personal data takes place in the context of the activities of an establishment of a controller or a processor in the Union, and the controller or processor is established in more than one Member State, the supervisory authority of the main establishment of the controller or processor shall be competent for the supervision of the processing activities of the controller or the processor in all Member States, without prejudice to the provisions of Chapter VII of this Regulation.
3. The supervisory authority shall not be competent to supervise processing operations of courts acting in their judicial capacity.

#### *Article 52* **Duties**

1. The supervisory authority shall:
  - (a) monitor and ensure the application of this Regulation;

- (b) hear complaints lodged by any data subject, or by an association representing that data subject in accordance with Article 73, investigate, to the extent appropriate, the matter and inform the data subject or the association of the progress and the outcome of the complaint within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;
  - (c) share information with and provide mutual assistance to other supervisory authorities and ensure the consistency of application and enforcement of this Regulation;
  - (d) conduct investigations either on its own initiative or on the basis of a complaint or on request of another supervisory authority, and inform the data subject concerned, if the data subject has addressed a complaint to this supervisory authority, of the outcome of the investigations within a reasonable period;
  - (e) monitor relevant developments, insofar as they have an impact on the protection of personal data, in particular the development of information and communication technologies and commercial practices;
  - (f) be consulted by Member State institutions and bodies on legislative and administrative measures relating to the protection of individuals' rights and freedoms with regard to the processing of personal data;
  - (g) authorise and be consulted on the processing operations referred to in Article 34;
  - (h) issue an opinion on the draft codes of conduct pursuant to Article 38(2);
  - (i) approve binding corporate rules pursuant to Article 43;
  - (j) participate in the activities of the European Data Protection Board.
2. Each supervisory authority shall promote the awareness of the public on risks, rules, safeguards and rights in relation to the processing of personal data. Activities addressed specifically to children shall receive specific attention.
  3. The supervisory authority shall, upon request, advise any data subject in exercising the rights under this Regulation and, if appropriate, co-operate with the supervisory authorities in other Member States to this end.
  4. For complaints referred to in point (b) of paragraph 1, the supervisory authority shall provide a complaint submission form, which can be completed electronically, without excluding other means of communication.
  5. The performance of the duties of the supervisory authority shall be free of charge for the data subject.
  6. Where requests are manifestly excessive, in particular due to their repetitive character, the supervisory authority may charge a fee or not take the action requested by the data subject. The supervisory authority shall bear the burden of proving the manifestly excessive character of the request.

*Article 53*  
**Powers**

1. Each supervisory authority shall have the power:
  - (a) to notify the controller or the processor of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, order the controller or the processor to remedy that breach, in a specific manner, in order to improve the protection of the data subject;
  - (b) to order the controller or the processor to comply with the data subject's requests to exercise the rights provided by this Regulation;
  - (c) to order the controller and the processor, and, where applicable, the representative to provide any information relevant for the performance of its duties;
  - (d) to ensure the compliance with prior authorisations and prior consultations referred to in Article 34;
  - (e) to warn or admonish the controller or the processor;
  - (f) to order the rectification, erasure or destruction of all data when they have been processed in breach of the provisions of this Regulation and the notification of such actions to third parties to whom the data have been disclosed;
  - (g) to impose a temporary or definitive ban on processing;
  - (h) to suspend data flows to a recipient in a third country or to an international organisation;
  - (i) to issue opinions on any issue related to the protection of personal data;
  - (j) to inform the national parliament, the government or other political institutions as well as the public on any issue related to the protection of personal data.
2. Each supervisory authority shall have the investigative power to obtain from the controller or the processor:
  - (a) access to all personal data and to all information necessary for the performance of its duties;
  - (b) access to any of its premises, including to any data processing equipment and means, where there are reasonable grounds for presuming that an activity in violation of this Regulation is being carried out there.

The powers referred to in point (b) shall be exercised in conformity with Union law and Member State law.
3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

4. Each supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

*Article 54*  
*Activity report*

Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the national parliament and shall be made available to the public, the Commission and the European Data Protection Board.

## CHAPTER VII

### CO-OPERATION AND CONSISTENCY

#### SECTION 1

#### CO-OPERATION

*Article 55*  
*Mutual assistance*

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.
2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.
3. The request for assistance shall contain all the necessary information, including the purpose of the request and reasons for the request. Information exchanged shall be used only in respect of the matter for which it was requested.
4. A supervisory authority to which a request for assistance is addressed may not refuse to comply with it unless:
  - (a) it is not competent for the request; or
  - (b) compliance with the request would be incompatible with the provisions of this Regulation.

5. The requested supervisory authority shall inform the requesting supervisory authority of the results or, as the case may be, of the progress or the measures taken in order to meet the request by the requesting supervisory authority.
6. Supervisory authorities shall supply the information requested by other supervisory authorities by electronic means and within the shortest possible period of time, using a standardised format.
7. No fee shall be charged for any action taken following a request for mutual assistance.
8. Where a supervisory authority does not act within one month on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.
9. The supervisory authority shall specify the period of validity of such provisional measure. This period shall not exceed three months. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.
10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

#### *Article 56*

#### *Joint operations of supervisory authorities*

1. In order to step up co-operation and mutual assistance, the supervisory authorities shall carry out joint investigative tasks, joint enforcement measures and other joint operations, in which designated members or staff from other Member States' supervisory authorities are involved.
2. In cases where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay.
3. Each supervisory authority may, as a host supervisory authority, in compliance with its own national law, and with the seconding supervisory authority's authorisation, confer executive powers, including investigative tasks on the seconding supervisory authority's members or staff involved in joint operations or, in so far as the host supervisory authority's law permits, allow the seconding supervisory authority's members or staff to exercise their executive powers in accordance with the seconding

supervisory authority's law. Such executive powers may be exercised only under the guidance and, as a rule, in the presence of members or staff from the host supervisory authority. The seconding supervisory authority's members or staff shall be subject to the host supervisory authority's national law. The host supervisory authority shall assume responsibility for their actions.

4. Supervisory authorities shall lay down the practical aspects of specific co-operation actions.
5. Where a supervisory authority does not comply within one month with the obligation laid down in paragraph 2, the other supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1).
6. The supervisory authority shall specify the period of validity of a provisional measure referred to in paragraph 5. This period shall not exceed three months. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission and shall submit the matter in the mechanism referred to in Article 57.

## **SECTION 2 CONSISTENCY**

### *Article 57*

#### ***Consistency mechanism***

For the purposes set out in Article 46(1), the supervisory authorities shall co-operate with each other and the Commission through the consistency mechanism as set out in this section.

### *Article 58*

#### ***Opinion by the European Data Protection Board***

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.
2. The obligation set out in paragraph 1 shall apply to a measure intended to produce legal effects and which:
  - (a) relates to processing activities which are related to the offering of goods or services to data subjects in several Member States, or to the monitoring of their behaviour; or
  - (b) may substantially affect the free movement of personal data within the Union; or
  - (c) aims at adopting a list of the processing operations subject to prior consultation pursuant to Article 34(5); or

- (d) aims to determine standard data protection clauses referred to in point (c) of Article 42(2); or
  - (e) aims to authorise contractual clauses referred to in point (d) of Article 42(2); or
  - (f) aims to approve binding corporate rules within the meaning of Article 43.
3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.
  4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter shall be dealt with in the consistency mechanism.
  5. Supervisory authorities and the Commission shall electronically communicate any relevant information, including as the case may be a summary of the facts, the draft measure, and the grounds which make the enactment of such measure necessary, using a standardised format.
  6. The chair of the European Data Protection Board shall immediately electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it, using a standardised format. The chair of the European Data Protection Board shall provide translations of relevant information, where necessary.
  7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.
  8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

*Article 59*  
***Opinion by the Commission***

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to

ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission's opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.
3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.
4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the draft measure shall not be adopted for one further month.

#### *Article 60* *Suspension of a draft measure*

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:
  - (a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or
  - (b) adopt a measure pursuant to point (a) of Article 62(1).
2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.
3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

#### *Article 61* *Urgency procedure*

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 and considers that final measures need urgently be adopted, it may request an urgent opinion of the European Data Protection Board, giving reasons for requesting such opinion, including for the urgency of final measures.
3. Any supervisory authority may request an urgent opinion where the competent supervisory authority has not taken an appropriate measure in a situation where there is an urgent need to act, in order to protect the interests of data subjects, giving reasons for requesting such opinion, including for the urgent need to act.
4. By derogation from Article 58(7), an urgent opinion referred to in paragraphs 2 and 3 of this Article shall be adopted within two weeks by simple majority of the members of the European Data Protection Board.

*Article 62*  
***Implementing acts***

1. The Commission may adopt implementing acts for:
  - (a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59;
  - (b) deciding, within the period referred to in Article 59(1), whether it declares draft standard data protection clauses referred to in point (d) of Article 58(2), as having general validity;
  - (c) specifying the format and procedures for the application of the consistency mechanism referred to in this section;
  - (d) specifying the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in Article 58(5), (6) and (8).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months.
3. The absence or adoption of a measure under this Section does not prejudice any other measure by the Commission under the Treaties.

*Article 63*  
**Enforcement**

1. For the purposes of this Regulation, an enforceable measure of the supervisory authority of one Member State shall be enforced in all Member States concerned.
2. Where a supervisory authority does not submit a draft measure to the consistency mechanism in breach of Article 58(1) to (5), the measure of the supervisory authority shall not be legally valid and enforceable.

**SECTION 3**  
**EUROPEAN DATA PROTECTION BOARD**

*Article 64*  
**European Data Protection Board**

1. A European Data Protection Board is hereby set up.
2. The European Data Protection Board shall be composed of the head of one supervisory authority of each Member State and of the European Data Protection Supervisor.
3. Where in a Member State more than one supervisory authority is responsible for monitoring the application of the provisions pursuant to this Regulation, they shall nominate the head of one of those supervisory authorities as joint representative.
4. The Commission shall have the right to participate in the activities and meetings of the European Data Protection Board and shall designate a representative. The chair of the European Data Protection Board shall, without delay, inform the Commission on all activities of the European Data Protection Board.

*Article 65*  
**Independence**

1. The European Data Protection Board shall act independently when exercising its tasks pursuant to Articles 66 and 67.
2. Without prejudice to requests by the Commission referred to in point (b) of paragraph 1 and in paragraph 2 of Article 66, the European Data Protection Board shall, in the performance of its tasks, neither seek nor take instructions from anybody.

*Article 66*  
**Tasks of the European Data Protection Board**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

- (a) advise the Commission on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;
  - (b) examine, on its own initiative or on request of one of its members or on request of the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;
  - (c) review the practical application of the guidelines, recommendations and best practices referred to in point (b) and report regularly to the Commission on these;
  - (d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57;
  - (e) promote the co-operation and the effective bilateral and multilateral exchange of information and practices between the supervisory authorities;
  - (f) promote common training programmes and facilitate personnel exchanges between the supervisory authorities, as well as, where appropriate, with the supervisory authorities of third countries or of international organisations;
  - (g) promote the exchange of knowledge and documentation on data protection legislation and practice with data protection supervisory authorities worldwide.
2. Where the Commission requests advice from the European Data Protection Board, it may lay out a time limit within which the European Data Protection Board shall provide such advice, taking into account the urgency of the matter.
  3. The European Data Protection Board shall forward its opinions, guidelines, recommendations, and best practices to the Commission and to the committee referred to in Article 87 and make them public.
  4. The Commission shall inform the European Data Protection Board of the action it has taken following the opinions, guidelines, recommendations and best practices issued by the European Data Protection Board.

#### *Article 67*

##### *Reports*

1. The European Data Protection Board shall regularly and timely inform the Commission about the outcome of its activities. It shall draw up an annual report on the situation regarding the protection of natural persons with regard to the processing of personal data in the Union and in third countries.

The report shall include the review of the practical application of the guidelines, recommendations and best practices referred to in point (c) of Article 66(1).

2. The report shall be made public and transmitted to the European Parliament, the Council and the Commission.

*Article 68*  
***Procedure***

1. The European Data Protection Board shall take decisions by a simple majority of its members.
2. The European Data Protection Board shall adopt its own rules of procedure and organise its own operational arrangements. In particular, it shall provide for the continuation of exercising duties when a member's term of office expires or a member resigns, for the establishment of subgroups for specific issues or sectors and for its procedures in relation to the consistency mechanism referred to in Article 57.

*Article 69*  
***Chair***

1. The European Data Protection Board shall elect a chair and two deputy chairpersons from amongst its members. One deputy chairperson shall be the European Data Protection Supervisor, unless he or she has been elected chair.
2. The term of office of the chair and of the deputy chairpersons shall be five years and be renewable.

*Article 70*  
***Tasks of the chair***

1. The chair shall have the following tasks:
  - (a) to convene the meetings of the European Data Protection Board and prepare its agenda;
  - (b) to ensure the timely fulfilment of the tasks of the European Data Protection Board, in particular in relation to the consistency mechanism referred to in Article 57.
2. The European Data Protection Board shall lay down the attribution of tasks between the chair and the deputy chairpersons in its rules of procedure.

*Article 71*  
***Secretariat***

1. The European Data Protection Board shall have a secretariat. The European Data Protection Supervisor shall provide that secretariat.
2. The secretariat shall provide analytical, administrative and logistical support to the European Data Protection Board under the direction of the chair.
3. The secretariat shall be responsible in particular for:
  - (a) the day-to-day business of the European Data Protection Board;

- (b) the communication between the members of the European Data Protection Board, its chair and the Commission and for communication with other institutions and the public;
- (c) the use of electronic means for the internal and external communication;
- (d) the translation of relevant information;
- (e) the preparation and follow-up of the meetings of the European Data Protection Board;
- (f) the preparation, drafting and publication of opinions and other texts adopted by the European Data Protection Board.

*Article 72*  
**Confidentiality**

1. The discussions of the European Data Protection Board shall be confidential.
2. Documents submitted to members of the European Data Protection Board, experts and representatives of third parties shall be confidential, unless access is granted to those documents in accordance with Regulation (EC) No 1049/2001 or the European Data Protection Board otherwise makes them public.
3. The members of the European Data Protection Board, as well as experts and representatives of third parties, shall be required to respect the confidentiality obligations set out in this Article. The chair shall ensure that experts and representatives of third parties are made aware of the confidentiality requirements imposed upon them.

**CHAPTER VIII**  
**REMEDIES, LIABILITY AND SANCTIONS**

*Article 73*  
**Right to lodge a complaint with a supervisory authority**

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.
2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

#### *Article 74*

##### ***Right to a judicial remedy against a supervisory authority***

1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.
2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).
3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.
4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.
5. The Member States shall enforce final decisions by the courts referred to in this Article.

#### *Article 75*

##### ***Right to a judicial remedy against a controller or processor***

1. Without prejudice to any available administrative remedy, including the right to lodge a complaint with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.
2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers.
3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.

4. The Member States shall enforce final decisions by the courts referred to in this Article.

*Article 76*  
***Common rules for court proceedings***

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.
2. Each supervisory authority shall have the right to engage in legal proceedings and bring an action to court, in order to enforce the provisions of this Regulation or to ensure consistency of the protection of personal data within the Union.
3. Where a competent court of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent court in the other Member State to confirm the existence of such parallel proceedings.
4. Where such parallel proceedings in another Member State concern the same measure, decision or practice, the court may suspend the proceedings.
5. Member States shall ensure that court actions available under national law allow for the rapid adoption of measures including interim measures, designed to terminate any alleged infringement and to prevent any further impairment of the interests involved.

*Article 77*  
***Right to compensation and liability***

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.
2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.
3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

*Article 78*  
***Penalties***

1. Member States shall lay down the rules on penalties, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented, including where the controller did not comply with the

obligation to designate a representative. The penalties provided for must be effective, proportionate and dissuasive.

2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.
3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

#### *Article 79* *Administrative sanctions*

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.
3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:
  - (a) a natural person is processing personal data without a commercial interest; or
  - (b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.
4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:
  - (a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);
  - (b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).
5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:
  - (a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

- (b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;
  - (c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;
  - (d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;
  - (e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;
  - (f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);
  - (g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.
6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:
- (a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;
  - (b) processes special categories of data in violation of Articles 9 and 81;
  - (c) does not comply with an objection or the requirement pursuant to Article 19;
  - (d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;
  - (e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;
  - (f) does not designate a representative pursuant to Article 25;
  - (g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

- (h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;
  - (i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;
  - (j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;
  - (k) misuses a data protection seal or mark in the meaning of Article 39;
  - (l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;
  - (m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);
  - (n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);
  - (o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

## **CHAPTER IX**

### **PROVISIONS RELATING TO SPECIFIC DATA PROCESSING SITUATIONS**

#### *Article 80*

#### *Processing of personal data and freedom of expression*

1. Member States shall provide for exemptions or derogations from the provisions on the general principles in Chapter II, the rights of the data subject in Chapter III, on controller and processor in Chapter IV, on the transfer of personal data to third countries and international organisations in Chapter V, the independent supervisory authorities in Chapter VI and on co-operation and consistency in Chapter VII for the processing of personal data carried out solely for journalistic purposes or the purpose of artistic or literary expression in order to reconcile the right to the protection of personal data with the rules governing freedom of expression.

2. Each Member State shall notify to the Commission those provisions of its law which it has adopted pursuant to paragraph 1 by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment law or amendment affecting them.

#### *Article 81*

##### *Processing of personal data concerning health*

1. Within the limits of this Regulation and in accordance with point (h) of Article 9(2), processing of personal data concerning health must be on the basis of Union law or Member State law which shall provide for suitable and specific measures to safeguard the data subject's legitimate interests, and be necessary for:
  - (a) the purposes of preventive or occupational medicine, medical diagnosis, the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject to the obligation of professional secrecy or another person also subject to an equivalent obligation of confidentiality under Member State law or rules established by national competent bodies; or
  - (b) reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety, inter alia for medicinal products or medical devices; or
  - (c) other reasons of public interest in areas such as social protection, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system.
2. Processing of personal data concerning health which is necessary for historical, statistical or scientific research purposes, such as patient registries set up for improving diagnoses and differentiating between similar types of diseases and preparing studies for therapies, is subject to the conditions and safeguards referred to in Article 83.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying other reasons of public interest in the area of public health as referred to in point (b) of paragraph 1, as well as criteria and requirements for the safeguards for the processing of personal data for the purposes referred to in paragraph 1.

#### *Article 82*

##### *Processing in the employment context*

1. Within the limits of this Regulation, Member States may adopt by law specific rules regulating the processing of employees' personal data in the employment context, in particular for the purposes of the recruitment, the performance of the contract of employment, including discharge of obligations laid down by law or by collective agreements, management, planning and organisation of work, health and safety at work, and for the purposes of the exercise and enjoyment, on an individual or

collective basis, of rights and benefits related to employment, and for the purpose of the termination of the employment relationship.

2. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the safeguards for the processing of personal data for the purposes referred to in paragraph 1.

#### *Article 83*

##### *Processing for historical, statistical and scientific research purposes*

1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific research purposes only if:
  - (a) these purposes cannot be otherwise fulfilled by processing data which does not permit or not any longer permit the identification of the data subject;
  - (b) data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information as long as these purposes can be fulfilled in this manner.
2. Bodies conducting historical, statistical or scientific research may publish or otherwise publicly disclose personal data only if:
  - (a) the data subject has given consent, subject to the conditions laid down in Article 7;
  - (b) the publication of personal data is necessary to present research findings or to facilitate research insofar as the interests or the fundamental rights or freedoms of the data subject do not override these interests; or
  - (c) the data subject has made the data public.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the processing of personal data for the purposes referred to in paragraph 1 and 2 as well as any necessary limitations on the rights of information to and access by the data subject and detailing the conditions and safeguards for the rights of the data subject under these circumstances.

#### *Article 84*

##### *Obligations of secrecy*

1. Within the limits of this Regulation, Member States may adopt specific rules to set out the investigative powers by the supervisory authorities laid down in Article 53(2) in relation to controllers or processors that are subjects under national law or rules

established by national competent bodies to an obligation of professional secrecy or other equivalent obligations of secrecy, where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy. These rules shall only apply with regard to personal data which the controller or processor has received from or has obtained in an activity covered by this obligation of secrecy.

2. Each Member State shall notify to the Commission the rules adopted pursuant to paragraph 1, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.

#### *Article 85*

#### ***Existing data protection rules of churches and religious associations***

1. Where in a Member State, churches and religious associations or communities apply, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of individuals with regard to the processing of personal data, such rules may continue to apply, provided that they are brought in line with the provisions of this Regulation.
2. Churches and religious associations which apply comprehensive rules in accordance with paragraph 1 shall provide for the establishment of an independent supervisory authority in accordance with Chapter VI of this Regulation.

## **CHAPTER X DELEGATED ACTS AND IMPLEMENTING ACTS**

#### *Article 86*

#### ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of power referred to in Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official*

*Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 6(5), Article 8(3), Article 9(3), Article 12(5), Article 14(7), Article 15(3), Article 17(9), Article 20(6), Article 22(4), Article 23(3), Article 26(5), Article 28(5), Article 30(3), Article 31(5), Article 32(5), Article 33(6), Article 34(8), Article 35(11), Article 37(2), Article 39(2), Article 43(3), Article 44(7), Article 79(6), Article 81(3), Article 82(3) and Article 83(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

#### *Article 87*

##### ***Committee procedure***

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

## **CHAPTER XI**

### **FINAL PROVISIONS**

#### *Article 88*

##### ***Repeal of Directive 95/46/EC***

1. Directive 95/46/EC is repealed.
2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.

*Article 89*  
***Relationship to and amendment of Directive 2002/58/EC***

1. This Regulation shall not impose additional obligations on natural or legal persons in relation to the processing of personal data in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.
2. Article 1(2) of Directive 2002/58/EC shall be deleted.

*Article 90*  
***Evaluation***

The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, in particular taking account of developments in information technology and in the light of the state of progress in the information society. The reports shall be made public.

*Article 91*  
***Entry into force and application***

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from [two years from the date referred to in paragraph 1].

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*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 method(s) envisaged

### **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 participation in financing*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. **FRAMEWORK OF THE PROPOSAL/INITIATIVE**

This financial statement indicates in more detail the requirements in terms of administrative expenditure in order to put in practice the data protection reform, as explained in the corresponding impact assessment. The reform includes two legislative proposals, a general Data Protection Regulation and a Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. This financial statement covers the budgetary impact of both instruments.

According to the distribution of tasks, resources are required by the Commission and by the European Data Protection Supervisor (EDPS).

As regards the Commission, the necessary resources are already included in the proposed financial perspective 2014-2020. Data protection is one of the objectives of the Rights and Citizenship' programme, which will also support measures to put the legal framework into practice. The administrative appropriations including staff requirements are included in the administrative budget for DG JUST.

As regards the EDPS, the necessary resources will need to be taken into account in the respective annual budgets for the EDPS. The resources are detailed in the annex of this financial statement. In order to provide the resources required for the new tasks of the European Data Protection Board, for which the EDPS will provide the secretariat, reprogramming of Heading 5 of the financial perspective 2014-2020 will be required.

#### 1.1. **Title of the proposal/initiative**

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 flow of such data (General Data Protection Regulation).

Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

#### 1.2. **Policy area(s) concerned in the ABM/ABB structure<sup>49</sup>**

Justice – Protection of Personal Data

The budgetary impact concerns the Commission and the EDPS. The impact on the Commission budget is detailed in the tables of this financial statement. Operational

<sup>49</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

expenditure is part of the Rights and Citizenship Programme and has been taken into account in the financial statement for that programme already, as administrative expenditure is within the envelope for DG Justice. The elements concerning the EDPS are shown in the Annex.

1.3. **Nature of the proposal/initiative**

- ☐ The proposal/initiative relates to a new action
- ☐ The proposal/initiative relates to a new action following a pilot project/preparatory action<sup>50</sup>
- ☒ The proposal/initiative relates to the extension of an existing action
- ☐ The proposal/initiative relates to an action redirected towards a new action

1.4. **Objectives**

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The reform aims at completing the achievement of the original objectives, taking account of new developments and challenges, i.e.:

- increasing the effectiveness of the fundamental right to data protection and putting individuals in control of their data, particularly in the context of technological developments and increased globalisation;
- enhancing the internal market dimension of data protection by reducing fragmentation, strengthening consistency and simplifying the regulatory environment, thus eliminating unnecessary costs and reducing the administrative burden.

In addition, the entry into force of the Lisbon Treaty - and in particular the introduction of a new legal basis (Article 16 TFEU) - offers the opportunity to achieve a new objective, i.e.

- to establish a comprehensive data protection framework covering all areas.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No 1

To ensure consistent enforcement of data protection rules

Specific objective No 2

To rationalise the current governance system to help ensuring a more consistent enforcement

ABM/ABB activity(ies) concerned

[...]

#### 1.4.3. *Expected result(s) and impact*

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

As regards data controllers, both public and private entities shall benefit from more legal certainty by harmonised and clarified EU data protection rules and procedures creating a level playing field and ensuring consistent enforcement of data protection rules, as well as a considerable reduction of administrative burden.

Individuals will enjoy better control of their personal data and trust the digital environment and will remain protected including when their personal data are processed abroad. They will also encounter reinforced accountability of those processing personal data.

A comprehensive data protection system will also cover the areas of police and justice, including and beyond the former 3rd pillar.

#### 1.4.4. *Indicators of results and impact*

*Specify the indicators for monitoring implementation of the proposal/initiative.*

(cf. Impact Assessment, Section 8)

Indicators shall be evaluated periodically and shall include the following elements:

- Time and costs spent by data controllers in complying with legislation in 'other Member States'
- Resources allocated to DPAs,
- established DPOs in public and private organisations,
- Use made of DPIA,
- number of complaints made by data subjects and compensation received by data subjects,
- number of cases leading to prosecution of data controllers,
- fines imposed on data controllers responsible for breaches of data protection.

#### 1.5. **Grounds for the proposal/initiative**

##### 1.5.1. *Requirement(s) to be met in the short or long term*

The current divergences in the implementation, interpretation and enforcement of the Directive by Member States *hamper the functioning of the internal market and co-operation between public authorities in relation to EU policies*. This goes against the fundamental objective of the Directive of facilitating the free flow of personal data in the internal market. The rapid development of new technologies and globalisation further exacerbates this problem.

Individuals enjoy different data protection rights, due to fragmentation and inconsistent implementation and enforcement in different Member States. Furthermore, *individuals are often neither aware nor in control of what happens to their personal data* and therefore fail to exercise their rights effectively.

1.5.2. *Added value of EU involvement*

Member States alone cannot reduce the problems in the current situation. This is particularly the case for those problems that arise from the fragmentation in national legislations implementing the EU data protection regulatory framework. Thus, there is a strong rationale for a legal framework for data protection at EU level. There is a particular need to establish a harmonised and coherent framework allowing for a smooth transfer of personal data across borders within the EU while ensuring effective protection to all individuals across the EU.

1.5.3. *Lessons learned from similar experiences in the past*

The present proposals build on the experience with Directive 95/46/EC and the problems encountered due to fragmented transposition and implementation of that Directive, which have blocked it from achieving both its objectives, i.e. a high level of data protection and a single market for data protection.

1.5.4. *Coherence and possible synergy with other relevant instruments*

The present Data Protection Reform package aims at building a strong, consistent and modern data protection framework at EU level - technologically neutral, and future proof for the decades to come. It will benefit individuals - by strengthening their data protection rights, particularly in the digital environment - and will simplify the legal environment for businesses and the public sector, thus stimulating the development of the digital economy across the EU internal market and beyond, in line with the objectives of the Europe 2020 strategy.

The core of the data protection reform package consists of:

- a Regulation replacing Directive 95/46/EC;
- a Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, detection, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

These legislative proposals are accompanied by a report on the implementation by Member States of what is currently the main EU data protection instrument in the areas of police co-operation and judicial co-operation in criminal matters, the Framework Decision 2008/977/JHA.

**1.6. Duration and financial impact**

☐ Proposal/initiative of **limited duration**

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

2. ☐ Financial impact from YYYY to YYYY

☒ Proposal/initiative of **unlimited duration**

1. Implementation with a start-up period from 2014 to 2016,

2. followed by full-scale operation.

**1.7. Management mode(s) envisaged<sup>51</sup>**

☒ **Centralised direct management** by the Commission

☐ **Centralised indirect management** with the delegation of implementation tasks to:

3. ☐ executive agencies

4. ☐ bodies set up by the Communities<sup>52</sup>

5. ☐ national public-sector bodies/bodies with public-service mission

3. ☐ persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

☐ **Shared management** with the Member States

☐ **Decentralised management** with third countries

☐ **Joint management** with international organisations (*to be specified*)

*If more than one management mode is indicated, please provide details in the "Comments" section.*

Comments

//

<sup>51</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<sup>52</sup> [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)  
As referred to in Article 185 of the Financial Regulation.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

The first evaluation will take place 4 years after the entry into force of the legal instruments. An explicit review clause, by which the Commission will evaluate the implementation, is included in the legal instruments. The Commission will subsequently report to the European Parliament and the Council on its evaluation. Further evaluations will have to take place every four years. The Commission methodology on evaluation will be applied. These evaluations will be conducted with the help of targeted studies on the implementation of the legal instruments, questionnaires to national data protection authorities, expert discussions, workshops, Eurobarometer surveys, and so forth.

### 2.2. Management and control system

#### 2.2.1. Risk(s) identified

An Impact Assessment has been carried out for the reform of the data protection framework in the EU to accompany the proposals for the Regulations and the Directive

The new legal instrument will introduce a consistency mechanism, ensuring that independent supervisory authorities in Member States apply the framework in a consistent and coherent manner. The mechanism will operate through the European Data Protection Board composed of the heads of the national supervisory authorities and of the European Data Protection Supervisor (EDPS), which will replace the current Article 29 Working Party. The EDPS will provide the secretariat for this body.

In case of possibly divergent decisions by Member States' authorities, the European Data Protection Board will be consulted in order to issue an opinion on the matter. Should this procedure fail, or if a supervisory authority refuses to comply with the opinion, the Commission might, in order to ensure correct and consistent application of this Regulation, may issue an opinion or, where necessary, adopt a decision, where it has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application.

The consistency mechanism requires additional resources for the EDPS (12 FTE and adequate administrative and operative appropriations, e.g., for IT systems and operations) for providing the secretariat and for the Commission (5 FTE and related administrative and operational appropriations) for the handling of consistency cases.

#### 2.2.2. Control method(s) envisaged

Existing control methods applied by the EDPS and by the Commission will cover the additional appropriations.

**2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures*

Existing fraud prevention measures applied by the EDPS and by the Commission will cover the additional appropriations.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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

##### 1. Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
			from EFTA <sup>54</sup> countries	from candidate countries <sup>55</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	Number [Description.....]	Diff./non-diff. (53)				

#### 3.2. Estimated impact on expenditure

##### 3.2.1. Summary of estimated impact on expenditure

Heading of multiannual financial framework:		Number		EUR million (to 3 decimal places)				
• Operational appropriations	Number of budget line	Commitments	Payments	Year N <sup>56</sup> = 2014	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)
		(1)	(2)					
								TOTAL

53

Diff. = Differentiated appropriations / Non-diff. = Non-Differentiated Appropriations  
EFTA: European Free Trade Association.

54

Candidate countries and, where applicable, potential candidate countries from the Western Balkans.  
Year N is the year in which implementation of the proposal/initiative starts.

55

56



EUR million (to 3 decimal places)

	Year N=	2014	2015	2016	2017	2018	2019	Year 2020	TOTAL
DG: JUST									
• Human resources		2.922	2.922	3.977	2.922	2.922	2.922	2.922	20.454
• Other administrative expenditure		0.555	0.555	0.555	0.555	0.555	0.555	0.555	3.885
<b>TOTAL DG JUST</b>		<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>24.339</b>
<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total = Total payments)	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>24.339</b>

EUR million (to 3 decimal places)

	Year N <sup>58</sup>	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
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>3.477</b>	<b>24.339</b>
Commitments	3.477	3.477	3.477	3.477	3.477	24.339
Payments	3.477	3.477	3.477	3.477	3.477	24.339

58

Year N is the year in which implementation of the proposal/initiative starts.

### 3.2.2. Estimated impact on operational appropriations

6. ☒ The proposal/initiative does not require the use of operational appropriations

A high level of protection of personal data is also one of the objectives of the Rights and Citizenships Programme.

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

Commitment appropriations in EUR million (to 3 decimal places)

Commitment appropriations in EUR million (to 3 decimal p

Indicate objectives and outputs		Year N=2014	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 of output <sup>59</sup>	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost
		SPECIFIC OBJECTIVE No 1													
- Output	Files <sup>60</sup>														
Sub-total for specific objective N°1															
SPECIFIC OBJECTIVE No 2															
- Output	Cases <sup>61</sup>														
Sub-total for specific objective N°2															
TOTAL COST															

<sup>59</sup>

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

<sup>60</sup>

Opinions, decisions, procedures meetings of the board.

<sup>61</sup>

Cases treated under the consistency mechanism

3.2.3. *Estimated impact on appropriations of an administrative nature*

3.2.3.1. Summary

8. ☐ The proposal/initiative does not require the use of administrative appropriations

9. ☒ The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	Year N <sup>62</sup> 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
--	---------------------------------	--------------	-----------	-----------	-----------	-----------	-----------	-------

<b>HEADING 5 of the multiannual financial framework</b>								
Human resources	<u>2.922</u>	<u>2.922</u>	<u>2.922</u>	<u>2.922</u>	<u>2.922</u>	<u>2.922</u>	<u>2.922</u>	<u>20.454</u>
Other administrative expenditure	<u>0.555</u>	<u>0.555</u>	<u>0.555</u>	<u>0.555</u>	<u>0.555</u>	<u>0.555</u>	<u>0.555</u>	<u>3.885</u>
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>24.339</u>

<b>Outside HEADING 5<sup>63</sup> of the multiannual financial framework</b>								
Human resources								
Other expenditure of an administrative nature								
<b>Subtotal outside HEADING 5 of the multiannual financial framework</b>								

<b>TOTAL</b>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>3.477</u>	<u>24.339</u>
--------------	--------------	--------------	--------------	--------------	--------------	--------------	--------------	---------------

<sup>62</sup>  
<sup>63</sup>

Year N is the year in which implementation of the proposal/initiative starts.  
Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

### 3.2.3.2. Estimated requirements of human resources

10. ☐ The proposal/initiative does not require the use of human resources
11. ☒ The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units (or at most to one decimal place)*

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
<b>• Establishment plan posts (officials and temporary agents)</b>							
XX 01 01 01 (Headquarters and Commission's Representation Offices)	22	22	22	22	22	22	22
XX 01 01 02 (Delegations)							
<b>• External personnel (in Full Time Equivalent unit: FTE)<sup>64</sup></b>							
XX 01 02 01 (CA, INT, SNE from the "global envelope")	2	2	2	2	2	2	2
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)							
XX 01 04 yy <sup>65</sup>	- at Headquarters <sup>66</sup>						
	- in delegations						
XX 01 05 02 (CA, INT, SNE - Indirect research)							
10 01 05 02 (CA, INT, SNE - Direct research)							
Other budget lines (specify)							
<b>TOTAL</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>

XX is the policy area or budget title concerned.

With the reform, the Commission will have to perform new tasks in the area of the protection of individuals regarding the processing of personal data, in addition to those currently performed. The additional tasks mainly concern the implementation of the new consistency mechanism which will ensure coherent application of harmonised data protection law, the adequacy assessment of third countries for which the Commission will have sole responsibility, and the preparation of implementing measures and delegated acts. The other tasks currently performed by the Commission (e.g. policy development, monitoring transposition, awareness raising, complaints etc), will continue to be performed.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the

<sup>64</sup> CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

<sup>65</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>66</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

managing DGI under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	<p>Case handlers, operating the data protection consistency mechanism to ensure unity of application of EU data protection rules. Tasks include investigation and research of cases submitted for decision from Member States' authorities, negotiation with Member States and preparation of Commission decisions. Based on recent experience, 5 to 10 cases per year may require invocation of the consistency mechanism.</p> <p>The handling of adequacy requests requires direct interaction with the requesting country, possibly the management of expert studies on the conditions in the country, assessment of the conditions, preparation of the relevant Commission decisions and of the process, including of the Committee assisting the Commission and any expert bodies as appropriate. Based on current experience, up to 4 adequacy requests can be expected per year.</p> <p>The process of adopting implementing measures includes preparatory measures, such as issue papers, research and public consultations, as well as the drafting of the actual instrument and management of the negotiation process in the relevant Committees and other groups, as well as stakeholder contacts in general. Across the areas requiring more precise guidance, up to three implementing measures may be handled per year, while the process may take up to 24 months, depending on the intensity of consultations.</p>
External personnel	Administrative and secretarial support

### 3.2.4. Compatibility with the current multiannual financial framework

12. ☐ Proposal/initiative is compatible with the *next* multiannual financial framework.
13. ☒ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

The table below indicates the amounts of financial resources required annually by the EDPS for its new tasks of providing the secretariat of the European Data Protection Board and the related procedures and tools over the period of the next financial perspective, in addition to those already included in the planning.

Year	2014	2015	2016	2017	2018	2019	2020	Total
Staff etc	1.555	1.555	1.543	1.543	1.543	1.543	1.543	10.823
Operations	0.850	1.500	1.900	1.900	1.500	1.200	1.400	10.250
<b>Total</b>	<b>2.405</b>	<b>3.055</b>	<b>3.443</b>	<b>3.443</b>	<b>3.043</b>	<b>2.743</b>	<b>2.943</b>	<b>21.073</b>

14. ☐ Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>67</sup>.

<sup>67</sup>

See points 19 and 24 of the Interinstitutional Agreement.

### 3.2.5. Third-party contributions

15. ☒ The proposal/initiative does not provide for co-financing by third parties
16. ☐ The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 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
<i>Specify the co-financing body</i>								
TOTAL appropriations cofinanced								

### 3.3. Estimated impact on revenue

17. ☒ Proposal/initiative has no financial impact on revenue.
18. ☐ Proposal/initiative has the following financial impact:
- ☐ on own resources
  - ☐ on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative <sup>68</sup>					
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)	

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.  
Specify the method for calculating the impact on revenue.

<sup>68</sup>

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.

Annex to Legislative Financial Statement for proposal for a Regulation of the European Parliament and of the Council on the protection of individuals regarding the processing of personal data.

**Applied methodology and main underlying assumptions**

The costs related to the new tasks to be carried out by the European Data Protection Supervisor (EDPS) stemming from the two proposals have been estimated for staff expenditure on the basis of the costs incurred by the Commission currently for similar tasks.

The EDPS will host the secretariat of the European Data Protection Board replacing the Article 29 Working Party. On the basis of the Commission current workload for this task, this results in the need for 3 additional FTE plus corresponding administrative and operational expenditure. This workload will commence from the entry into force of the Regulation.

Furthermore, the EDPS will have a role in the consistency mechanism which is expected to require 5 FTEs, and in developing and operating a common IT tool for national DPAs, which will require 2 additional staff members.

The calculation of the increase in the required staff budget for the first seven years is presented in more detail in the table below. A second table shows the required operational budget. This will be reflected in the Budget of the EU in Section IX EDPS.

Cost type	Calculation	Amount (in thousands)							
		2014	2015	2016	2017	2018	2019	2020	Total
<i>Salaries and allowances</i>									
- of EDPB Chair		0.300	0.300	0.300	0.300	0.300	0.300	0.300	2.100
- of which officials and temporary agents	$=7*0.127$	0.889	0.889	0.889	0.889	0.889	0.889	0.889	6.223
- of which SNIs	$=1*0.073$	0.073	0.073	0.073	0.073	0.073	0.073	0.073	0.511
- of which contract agents	$=2*0.064$	0.128	0.128	0.128	0.128	0.128	0.128	0.128	0.896
<i>Expenditure related to recruitment</i>	$=10*0.005$	0.025	0.025	0.013	0.013	0.013	0.013	0.013	0.113
<i>Mission expenses</i>		0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.630
<i>Other expenses, training</i>	$=10*0.005$	0.050	0.050	0.050	0.050	0.050	0.050	0.050	0.350
<b>Total Administrative expenditure</b>		<b>1.555</b>	<b>1.555</b>	<b>1.543</b>	<b>1.543</b>	<b>1.543</b>	<b>1.543</b>	<b>1.543</b>	<b>10.823</b>

Description of tasks to be carried out:

Officials and temporary agents	<p>Desk officers in charge of the secretariat of the Data Protection Board. Apart from logistics support, including budgetary and contractual issues, this includes the preparation of meeting agendas and expert invitations, research on subjects on the agenda of the group, management of the documents relating to the work of the group including the relevant data protection, confidentiality and public access requirements. Including all subgroups and expert groups, up to 50 meetings and decision procedures may have to be organised every year.</p> <p>Case handlers, operating the data protection consistency mechanism to ensure unity of application of EU data protection rules. Tasks include investigation and research of cases submitted for decision from Member States' authorities, negotiation with Member States and preparation of Commission decisions. Based on recent experience, there may be 5 to 10 cases per year requiring invocation of the consistency mechanism.</p> <p>The IT tool shall simplify the operational interaction between national DPAs and data controllers obliged to share information with the public authorities. The responsible staff member(s) will ensure quality control, project management and budgetary follow-up of the IT processes on requirements engineering, implementation and operation of the systems.</p>
External personnel	Administrative and secretarial support

# Expenditure for EDPS relating to specific tasks

Indicate objectives and outputs			Year N=2014	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 of output <sup>69</sup>	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost				
SPECIFIC OBJECTIVE No 1 <sup>70</sup>																			Secretariat to DP Board			
- Output	Cases <sup>71</sup>	0.010	30	0.300	40	0.400	50	0.500	50	0.500	50	0.500	50	0.500	50	0.500	320	3.200				
Sub-total for specific objective N°1			30	0.300	40	0.400	50	0.500	50	0.500	50	0.500	50	0.500	50	0.500	320	3.200				
SPECIFIC OBJECTIVE No 2																			Consistency Mechanism			
- Output	Files <sup>72</sup>	0.050	5	0.250	10	0.500	10	0.500	10	0.500	10	0.500	8	0.400	8	0.400	59	2.950				
Sub-total for specific objective N°2			5	0.250	10	0.500	10	0.500	10	0.500	10	0.500	8	0.400	8	0.400	59	2.950				
SPECIFIC OBJECTIVE No 3																			Common IT tool for DPAs (EDPS)			
- Output	Cases <sup>73</sup>	0.100	3	0.300	6	0.600	9	0.900	9	0.900	6	0.600	3	0.300	5	0.500	41	4.100				
Sub-total for specific objective N°3			3	0.300	6	0.600	9	0.900	9	0.900	6	0.600	3	0.300	5	0.500	41	4.100				
TOTAL COST			38	0.850	56	1.500	69	1.900	69	1.900	64	1.500	61	1.200	63	1.400	420	10.250				

<sup>69</sup>

Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.). As described in Section 1.4.2. "Specific objective(s)..."

Cases treated under the consistency mechanism

Opinions, decisions, procedures meetings of the board.

The totals for each year estimate the efforts for developing and operating the IT tools

<sup>73</sup>

