



**Comments on DPR Amendments in LIBE**

**Articles 4, 5, 6, 7, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 31, 32, 79, 80 & 83**

The left column repeats the Commission proposal; the right column contains the amendments proposed by MEPs. EDRI's comments can be found below. For ease of reading, the headings are highlighted:

**Green** – for amendments which we welcome;

**Yellow** – for amendments which pursue good aims, but could benefit from further suggested improvements;

**Red** – for amendments which in our view should be reconsidered;

**Grey** – Not within our purview and/or does not change the meaning of the amendment.

Amendment 712 (Alexander Alvaro) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;</i>	<i>deleted</i>
Comment: This is a technical amendment.	

Amendment 713 (Petru Constantin Luhan) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in	(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number,

particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person <b>and who is not acting in his/her professional capacity</b> ;
Comment: This is a bad amendment. Exceptions for processing of citizens in their professional capacity should be included in the relevant section on employer/employee data, not as a full exception.	

Amendment 714 (Sophia in 't Veld) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification <b>number</b> , location data, online <b>identifier</b> or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural <b>or social</b> identity of that person;	(1) ‘data subject’ means an identified natural person or a natural person who can be identified <b>or singled out</b> , directly or indirectly, <b>alone or in combination with associated data</b> , by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to <b>a unique identifier</b> , an identification <b>code</b> , location data, online <b>identifiers</b> or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, <b>social or gender</b> identity <b>or sexual orientation</b> of that person;
Comment: This is a very good amendment clarifying the singling out criteria and promoting it from 'soft law' (WP29 opinions) to the regulation. This provides clarity, legal certainty and necessary protection for data subjects.	

Amendment 715 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, <b>working together with the controller</b> , in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person <b>and who is not acting in his/her professional capacity</b> ;
Comment: This is a bad amendment, narrowing the scope of the Regulation in two aspects would lead to a serious loophole in the protection of personal data. Strong limitation of applicability creates a major loophole and seems contrary to art 8 of the Charter. People are entitled to protection of the data concerning them, not just when the data is being processed by the controller or another natural or legal person 'working with the controller'. For 'professional capacity': see comment to AM713.	

Amendment 716 (Louis Michel) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller <b>or by any other natural or legal person</b> , in particular by reference to an identification number, <b>location data, online identifier</b> or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller, in particular by reference to an identification number or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person. <b>A natural person shall not be considered identifiable if identification requires a disproportionate amount of time, effort or material resources;</b>
Comment: This amendment could be ok, clarifying the concept of identifiability	

Amendment 717 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Lara Comi, Monika Hohlmeier) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person <b>working together with the controller</b> , in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person <b>and who is not acting in his/her professional capacity;</b>
<p>Comment: This is a bad amendment, narrowing the scope of the Regulation in two aspects would lead to a serious loophole in the protection of personal data.</p> <p>Strong limitation of applicability creates a major loophole and seems contrary to art 8 of the Charter. People are entitled to protection of the data concerning them, not just when the data is being processing by the controller or another natural or legal person 'working with the controller'.</p> <p>For 'professional capacity': see comment to AM713.</p>	

Amendment 718 (Lidia Joanna Geringer de Oedenberg) Article 4 – paragraph 1 – point 1	
<i>Commission Proposal</i>	<i>Amendment</i>
(1) ‘data subject’ means an identified natural person <b>or a natural person</b> who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, <b>in particular by reference to an identification number, location data, online identifier or to</b>	(1) ‘data subject’ means an identified <b>or identifiable</b> natural person who can be identified, directly or indirectly, by <b>technically available</b> means reasonably likely to be used by the controller or by any other natural or legal person, <b>where the use of such means does not entail excessive costs, is not overly time-consuming</b>

<i>one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;</i>	<i>and does not require complex actions to be taken;</i>
Comment: This is a bad amendment, undue restrictions. Only 'technical available means' makes the regulation per definition NOT future proof and the criteria for identifiability (“does not require complex actions to be taken” are not specific enough as well as too weak to provide real protection for citizens.	

<b>Amendment 719 (Josef Weidenholzer, Birgit Sippel)</b> <b>Article 4 – paragraph 1 – point 1</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(1) ‘data subject’ means an identified <b><i>natural person or a natural person</i></b> who can be identified, directly or indirectly, by means reasonably <b><i>likely</i></b> to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	(1) ‘data subject’ means an identified <b><i>individual or household or an individual</i></b> who can be identified <b><i>or singled out</i></b> , directly or indirectly, by means reasonably <b><i>possible</i></b> to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person <b><i>or household</i></b> ;
Comment: Extending the scope of the Regulation to households is confusing and undermines legal clarity. However, the addition of 'singling out' is very welcome.	

<b>Amendment 720 (Ewald Stadler)</b> <b>Article 4 – paragraph 1 – point 1</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means <b><i>reasonably likely to be used by</i></b> the controller <b><i>or by any other natural or legal person</i></b> , in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;	(1) 'data subject' means an identified natural person or a natural person who can be <b><i>unequivocally</i></b> identified, directly or indirectly, by means <b><i>available to</i></b> the controller, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;
Comment: This a bad amendment as it removes the notion of the fact that data subjects can be identified by parties other than the controller. This undue restriction creates a large loophole in the protection of personal data.	

<b>Amendment 721 (Csaba Sógor)</b> <b>Article 4 – paragraph 1 – point 1</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to <b><i>an</i></b>	(1) ‘data subject’ means an identified natural person or a natural person who can be identified <b><i>or singled out</i></b> , directly or indirectly, <b><i>alone or in combination with associated data</i></b> , by means reasonably likely to be used by the controller or by any other natural or

<i>identification number</i> , location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural <i>or</i> social identity of that person;	legal person, in particular by reference to <i>a unique identifier</i> , location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, social <i>or gender</i> identity <i>or sexual orientation</i> of that person;
Comment: This is a good amendment because takes notion of 'singling out', which is a necessary clarification to ensure the protection of personal data.	

Amendment 722 (Alexander Alvaro) Article 4 – paragraph 1 – point 2	
<i>Commission Proposal</i>	<i>Amendment</i>
(2) ‘personal data’ <i>means</i> any information relating to <i>a</i> data subject;	(2) ‘personal data’ <i>shall mean</i> any information relating to <i>an identified or identifiable natural person</i> (‘data subject’); <i>an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to the person’s physical, physiological, genetic, mental, economic, cultural or social identity</i> (‘personal identifiers’);
Comment: This is a decent amendment, but disappointing to notice that a number of other amendments by Mr Alvaro aim to decrease protection of personal data by creating a separate and too lenient regime for data that are 'pseudonymized'. In conjunction, this approach creates loopholes in the protection of personal data of citizens.	

Amendment 723 (Monika Hohlmeier) Article 4 – paragraph 1 – point 2	
<i>Commission Proposal</i>	<i>Amendment</i>
(2) ‘personal data’ means any information relating to a data subject;	(2) ‘personal data’ means any information relating to <i>a particular or identifiable natural person</i> (data subject); <i>a person shall be regarded as identifiable if he can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to the physical, physiological, mental, economic, cultural or social identity of that person</i> ;
Comment:	

Amendment 724 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 2	
<i>Commission Proposal</i>	<i>Amendment</i>
(2) ‘personal data’ means any <i>information</i> relating to a data subject;	(2) ‘personal data’ means any <i>data specifically</i> relating to a data subject <i>whose specific identity can be identified, directly or indirectly by the controller or by</i>

	<i>any other natural or legal person, working together with the controller;</i>
Comment: This is a bad amendment, see comment to Amendment 715.	

Amendment 725 (Louis Michel) Article 4 – paragraph 1 – point 2	
<i>Commission Proposal</i>	<i>Amendment</i>
(2) ‘personal data’ means any information relating to a data subject;	(2) ‘personal data’ means any information relating to a data subject <i>where this information is identifiable as concerning the data subject; information which dot not allow for identification of a data subject and information which would not allow for such identification without a disproportionate amount of time, effort or material resources shall not be considered as personal data;</i>
Comment: This is a technical amendment.	

Amendment 726 (Alexander Alvaro) Article 4 – paragraph 1 – point 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2a) ‘pseudonymised data’ means personal data where personal identifiers have been removed, but where the link to these personal identifiers is still maintained so the data can be attributed to a data subject by anyone who has access to the linking codes;</i>
Comment: Of all amendments proposing a definition of 'pseudonymous data', this is the best one. However, the regime suggested by Mr. Alvaro contains a lot of loopholes based on this definition as it does not award sufficient protection to pseudonymised data.	

Amendment 727 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2a) ‘identification number’ means any numeric, alphanumeric or similar code typically used in the online space, excluding codes assigned by a public or state controlled authority to identify a natural person as an individual;</i>
Comment: This is a technical amendment.	

Amendment 728 (Dimitrios Droutsas) Article 4 – paragraph 1 – point 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2a) ‘pseudonym’ means a unique identifier which is specific to one given context and which does not permit the direct identification of a natural person, but allows the singling out of a data subject;</i>
Comment: This is an accurate description of the concept 'pseudonym'.	

Amendment 729 (Sarah Ludford) Article 4 – paragraph 1 – point 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2a) ‘pseudonymised data’ means any personal data that has been altered so that it cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non-attribution;</i>
Comment: See comment to AM726; a better description of pseudonymised data.	

Amendment 730 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier, Georgios Papanikolaou, Anna Maria Corazza Bildt) Article 4 – paragraph 1 – point 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2a) ‘pseudonymous data’ means any personal data that has been collected, altered or otherwise processed so that it of itself cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non attribution, or that such attribution would require a disproportionate amount of time, expense and effort;</i>
Comment: See comment to AM726; a better description of pseudonymous data. Please note that given the ubiquity of technology and data collection, it does not take much effort on behalf of a data controller to attribute data to a certain data subject. It could be as simple as merging two databases.	

Amendment 731 (Alexander Alvaro) Article 4 – paragraph 1 – point 2 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(2b) ‘anonymised data’ means data, which is impossible to be attributed to a data subject in any manner because all references to personal identifiers</i>

	<i>have been removed permanently and completely; therefore anonymised data is not subject to this Regulation;</i>
Comment: A definition of anonymous data is not necessary. The 95/46/EC Directive did not need such a definition. However, if such a definition would be introduced it must be clear that anonymisation is not easily attainable and that as soon as data can be related back to a natural person (and thus 'relate to a person'), such data deserve protection under the EU Charter of fundamental rights and thus under the Regulation.	

<b>Amendment 732 (Adina-Ioana Vălean, Jens Rohde)</b> Article 4 – paragraph 1 – point 2 b (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(2b) ‘pseudonymous data’ means any personal data that has been collected, altered or otherwise processed so that it of itself cannot be attributed to a data subject without the use of additional data which is subject to separate and distinct technical and organisational controls to ensure such non-attribution;</i>
Comment: See comment to AM726; a better description of pseudonymised data.	

<b>Amendment 733 (Sarah Ludford)</b> Article 4 – paragraph 1 – point 2 b (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(2b) ‘anonymised data’ or ‘data rendered anonymous’ means personal data that has been modified in a way that the information can no longer be attributed to an identifiable natural person;</i>
Comment: A definition of anonymous data is not necessary. The 95/46/EC Directive did not need such a definition. However, if such a definition would be introduced it must be clear that anonymisation is not easily attainable and that as soon as data can be related back to a natural person (and thus 'relate to a person'), such data deserve protection under the EU Charter of fundamental rights and thus under the Regulation. The proposed definition is too lenient ('modified in a way') and does not take these concerns into account.	

<b>Amendment 734 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier, Georgios Papanikolaou, Anna Maria Corazza Bildt)</b> Proposal for a regulation Article 4 – paragraph 1 – point 2 b (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(2b) ‘anonymous data’ means any personal data that has been collected, altered or otherwise processed in such a way that it can no longer be attributed to a data subject; anonymous data shall not be considered personal data;</i>
Comment: A definition of anonymous data is not necessary. The 95/46/EC Directive did not need such a definition. However, if such a definition would be introduced it must be clear that anonymization is not	



easily attainable and that as soon as data can be related back to a natural person (and thus 'relate to a person'), such data deserve protection under the EU Charter of fundamental rights and thus under the Regulation. The proposed definition is too lenient ('modified in a way') and does not take these concerns into account.

**Amendment 735 (Alexander Alvaro)**  
**Article 4 – paragraph 1 – point 2 c (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(2c) ‘encrypted data’ means personal data, which through technological protection measures is rendered unintelligible to any person who is not authorised to access it;</i></b>
<p>Comment: Technically if the data is encrypted it would be anonymised, encryption is just a security measure so a definition of encrypted data is not necessary.</p>	

**Amendment 736 (Axel Voss)**  
**Article 4 – paragraph 1 – point 2 c (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(2c) ‘identification number’ means any numeric, alphanumeric or similar code typically used in the online space, excluding codes assigned by a public or state controlled authority to identify a natural person as an individual;</i></b>
<p>Comment: This is a technical amendment.</p>	

**Amendment 737 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 4 – paragraph 1 – point 2 c (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(2c) ‘anonymous data’ means any personal data that has been collected, altered or otherwise processed in such a way that it can no longer be attributed to a data subject;</i></b>
<p>Comment: A definition of anonymous data is not necessary. The 95/46/EC Directive did not need such a definition. However, if such a definition would be introduced it must be clear that anonymization is not easily attainable and that as soon as data can be related back to a natural person (and thus 'relate to a person'), such data deserve protection under the EU Charter of fundamental rights and thus under the Regulation. The proposed definition is too lenient ('modified in a way') and does not take these concerns into account.</p>	

**Amendment 738 (Alexander Alvaro)**  
**Article 4 – paragraph 1 – point 2 d (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(2d) ‘profiling’ means the aggregation, classification and recording of information based on a data subject’s personal data or pseudonymised data aiming to</i></b>

	<i>analyse behavioural patterns of the individual data subject;</i>
<p>Comment: Such justifications may lead to defining each and every single word in the Regulation in Article 4. The proposed definition is however not sufficient: it should include the fact that profiling consists of 'automated processing' (including but not limited to specific forms of processing such as aggregation, and classification) based on personal data and intended to analyse i.e. behavioural patterns. Profiling can also consist of a single act, such as the finding that Caucasian woman are very safe drivers – and offering a non Caucasian male an expensive car insurance without actually analysing his behaviour.</p>	

Amendment 739 (Ewald Stadler) Article 4 – paragraph 1 – point 3	
<i>Commission Proposal</i>	<i>Amendment</i>
(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure or destruction;	(3) 'processing' means any operation or set of operations which is performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, erasure, <b>blocking</b> or destruction;
<p>Comment:</p>	

Amendment 740 (Cornelia Ernst) Article 4 – paragraph 1 – point 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(3a) 'Profiling' means any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person or to analyze or to predict in particular that natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour;</i>
<p>Comment: This is a good definition of profiling.</p>	

Amendment 741 (Dimitrios Droutsas) Article 4 – paragraph 1 – point 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(3a) 'profiling' means any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person or to analyze or predict in particular that natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour;</i>

Comment: This is a good definition of profiling.

**Amendment 742 (Marie-Christine Vergiat, Cornelia Ernst)**  
**Article 4 – paragraph 1 – point 3 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(3a) ‘profiling’ means any kind of automated processing of personal data carried out in order to assess certain characteristics specific to a natural person or to analyse or predict, in particular, his or her professional performance, economic situation, location, state of health, personal preferences, reliability or conduct, and/or in order to tailor a service which is provided or a decision which is applied to a person, and which may also involve processing to determine to what category or categories a person belongs;</i>
Comment: This is the best definition of profiling as it takes into account that a person can be 'scored' against a certain category of other peoples behaviour.	

**Amendment 743 (Marie-Christine Vergiat)**  
**Article 4 – paragraph 1 – point 3 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(3b) ‘biometric data’ means any data concerning the unique physical, physiological or behavioural characteristics of an individual, for example images of the face or dactyloscopic data;</i>
Comment:	

**Amendment 744 (Alexander Alvaro)**  
**Article 4 – paragraph 1 – point 5**

<i>Commission Proposal</i>	<i>Amendment</i>
(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, <b>conditions</b> and means of the processing of personal data; where the purposes, <b>conditions</b> and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;
Comment:	

Amendment 745 (Stanimir Ilchev) Article 4 – paragraph 1 – point 5	
<i>Commission Proposal</i>	<i>Amendment</i>
(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, conditions and means of the processing of personal data; where the purposes, conditions and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	(5) 'controller' means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, conditions and means of the processing of personal data; where the purposes, conditions and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law; <b><i>controllers include in particular:</i></b>
Comment:	

Amendment 746 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 5	
<i>Commission Proposal</i>	<i>Amendment</i>
(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, <b><i>conditions and means</i></b> of the processing of personal data; where the purposes, <b><i>conditions and means</i></b> of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;
Comment:	

Amendment 747 (Louis Michel) Article 4 – paragraph 1 – point 5	
<i>Commission Proposal</i>	<i>Amendment</i>
(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, <b><i>conditions and means</i></b> of the processing of personal data; where the purposes, <b><i>conditions and means</i></b> of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;
Comment:	

Amendment 748 (Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál) Article 4 – paragraph 1 – point 5	
<b>Commission Proposal</b>	<b>Amendment</b>
(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, <b>conditions and means</b> of the processing of personal data; where the purposes, <b>conditions and means</b> of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;	(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, of the processing of personal data; where the purposes of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;
Comment:	

Amendment 749 (Stanimir Ilchev) Article 4 – paragraph 1 – point 5 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<b>(5a) ‘direct controller’ means a person who collects personal data from the data subject or otherwise processes it;</b>
Comment:	

Amendment 750 (Stanimir Ilchev) Article 4 – paragraph 1 – point 5 b (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<b>(5b) ‘indirect controller’ means a person who does not collect personal data from the data subject or otherwise process it.</b>
Comment:	

Amendment 751 (Marie-Christine Vergiat) Article 4 – paragraph 1 – point 6 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<b>(6a) ‘publisher’ means any natural or legal person, a public authority, a service or any other body which creates automated data processing systems or data files intended to be used in the processing of personal data by controllers and processors, including the equipment used by the person</b>

	<i>concerned;</i>
Comment:	

<b>Amendment 752 (Carmen Romero López)</b> <b>Article 4 – paragraph 1 – point 6 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(6a) ‘data protection by design’ means data protection embedded within the entire life cycle of the technology, from the very early design stage, right through to its ultimate deployment, use and final disposal;</i>
Comment:	

<b>Amendment 753 (Carmen Romero López)</b> <b>Article 4 – paragraph 1 – point 6 b (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(6b) ‘data protection by default’ means configuration of the privacy settings on services and products so that these comply with the general principles of data protection, such as transparency, data minimisation, purpose limitation, integrity, storage minimisation, intervention possibility and accountability.</i>
Comment:	

<b>Amendment 754 (Alexander Alvaro)</b> <b>Article 4 – paragraph 1 – point 7 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(7a) ‘third party’ means any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;</i>
Comment: This amendment brings a helpful clarification.	

<b>Amendment 755 (Adina-Ioana Vălean, Jens Rohde)</b> <b>Article 4 – paragraph 1 – point 7 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>

	<i>(7a) ‘third party’ means any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;</i>
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Comment: This amendment brings a helpful clarification.

**Amendment 756 (Alexander Alvaro)  
Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed; <b>by ‘clear affirmative action’ is meant any unequivocal action that is the result of choice and that implies, for its complete execution, a necessary data processing;</b>

Comment: The addition does not deliver a correct explanation of the words 'clear affirmative'. As a result, implicit consent will be allowed when a user chooses to (continue to) use a certain service.

**Amendment 757 (Adina-Ioana Vălean, Jens Rohde)  
Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed and <b>explicit</b> indication of his or her wishes by which the data subject, <b>either by a statement or by a clear affirmative action</b> , signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given specific, informed and <b>unambiguous</b> indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed;

Comment: This amendment would lower the bar and allow “implicit” consent, which would undermine the rights of the data subject.

**Amendment 758 (Louis Michel)  
Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed <b>and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action</b> , signifies agreement to <b>personal data relating to them being processed;</b>	(8) ‘the data subject’s consent’ means any freely given specific <b>and</b> informed <b>expression of will, either by a statement, an action or a specific conduct</b> , which, <b>in view of the context and circumstances at the time consent is required</b> , signifies <b>the data subject’s agreement to the processing of the personal data;</b>

Comment: The additions make the definition harder to understand and execute. As a result, implicit consent will be allowed under certain circumstances for instance when a user chooses to (continue to) use a certain service. The differentiation per context makes it extremely difficult for data subjects whether he or she has consented to data processing in a certain situation: consent can be explicit and opt-in or implicit, or opt-out, all depending on the 'context' – to be assessed by the controller.

**Amendment 759 (Josef Weidenholzer)**

**Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, <b>either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;</b>	(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes - <b>prior declaration of will ('voluntatis declaratio')</b> - by which the data subject <b>signifies his or her specific, informed and unambiguous agreement to the processing of personal data;</b>

Comment: This amendment is ok even though it doesn't offer much more compared to the original definition proposed by the Commission.

**Amendment 760 (Lidia Joanna Geringer de Oedenberg)**

**Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) 'the data subject's consent' means any freely given specific, informed <b>and explicit</b> indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) 'the data subject's consent' means any freely given specific <b>and</b> informed indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed. <b>The permission of the data subject may also be sought electronically, particularly in the context of information society services;</b>

Comment: The addition regarding electronic consent does not deliver any benefits over the Commissions proposal. Omitting the word 'explicit' is a clear decrease and de-validates the consent requirement.

**Amendment 761 (Marie-Christine Vergiat)**

**Article 4 – paragraph 1 – point 8**

<i>Commission Proposal</i>	<i>Amendment</i>
(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed <b>with a view to achieving a specific objective or several compatible and inseparable objectives;</b>

Comment: This is a good amendment as it ties consent to specific purposes (objectives) or related purposes.



Amendment 762 (Sarah Ludford, Charles Tannock) Article 4 – paragraph 1 – point 8	
<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, <b><i>informed and explicit</i></b> indication of his or her wishes by which the data subject, <b><i>either by a statement or by a clear affirmative action</i></b> , signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given specific <b><i>and informed</i></b> indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed;
Comment: This is a bad amendment, allowing for implicit consent, which does not provide enough protection to data subjects. Simply deleting part of the Commissions proposal is not a solution to fix perceived clarity issues as referred to below under the Justification.	

Amendment 763 (Cornelia Ernst, Marie-Christine Vergiat) Article 4 – paragraph 1 – point 8	
<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed <b><i>for one or more specific purposes</i></b> ;
Comment: This is a good amendment as it ties consent to specific purposes.	

Amendment 764 (Timothy Kirkhope) Article 4 – paragraph 1 – point 8	
<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed <b><i>and explicit</i></b> indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given, specific <b><i>and informed, contract or</i></b> indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;
Comment: This is a bad amendment, allowing for implicit consent, which does not provide enough protection to data subjects. Simply deleting part of the Commissions proposal is not a solution to fix perceived clarity issues as referred to below under the Justification.	

Amendment 765 (Axel Voss, Seán Kelly, Wim van de Camp, Hubert Pirker, Monika Hohlmeier, Georgios Papanikolaou, Véronique Mathieu Houillon, Anna Maria Corazza Bildt) Article 4 – paragraph 1 – point 8	
<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed and <b><i>explicit</i></b> indication of his or her wishes by which the data subject, <b><i>either by a statement or by a</i></b>	(8) ‘the data subject’s consent’ means any freely given specific, informed and <b><i>unambiguous</i></b> indication of his or her wishes by which the data subject signifies agreement to personal data relating to them being processed;

<i>clear affirmative action</i> , signifies agreement to personal data relating to them being processed;	<i>Silence or inactivity does not in itself indicate acceptance</i> ;
Comment: This is a bad amendment, allowing for implicit consent which does not provide enough protection to data subjects.	

Amendment 766 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 4 – paragraph 1 – point 8	
<i>Commission Proposal</i>	<i>Amendment</i>
(8) ‘the data subject’s consent’ means any freely given specific, informed <b>and explicit</b> indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;	(8) ‘the data subject’s consent’ means any freely given specific and informed indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;
Comment: This is a bad amendment, allowing for implicit consent, which does not provide enough protection for data subjects.	

Amendment 767 (Alexander Alvaro) Article 4 – paragraph 1 – point 9	
<i>Commission Proposal</i>	<i>Amendment</i>
(9) ‘personal data breach’ means <b>a breach of security leading to</b> the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
Comment: This is a good amendment, acknowledging the fact that a data breach can also occur when there is no breach of security.	

Amendment 768 (Jan Mulder) Article 4 – paragraph 1 – point 9	
<i>Commission Proposal</i>	<i>Amendment</i>
(9) ‘personal data breach’ means a breach <b>of security</b> leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) ‘personal data breach’ means a breach leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
Comment: This is a good amendment, see comment to Amendment 767.	

Amendment 769 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 9	
<i>Commission Proposal</i>	<i>Amendment</i>
(9) ‘personal data breach’ means <b>a breach of security leading to</b> the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
Comment: This is a good amendment, see comment to Amendment 767.	

Amendment 770 (Louis Michel) Article 4 – paragraph 1 – point 9	
<i>Commission Proposal</i>	<i>Amendment</i>
(9) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed <b>when such personal data has not been rendered unintelligible to any person who is not authorized to access it and where such a breach causes or is likely to cause a significant adverse effect on the privacy of the data subject;</b>
Comment: This is a bad amendment as it confuses notification requirements with the definition. Also, when data is 'rendered unintelligible' to unauthorized parties but can be rendered intelligible relatively easy, it constitutes personal data and a breach thus qualifies as a personal data breach. If the data is rendered fully unintelligible, it is not personal data and the notification duty will thus not apply.	

Amendment 771 (Jacek Protasiewicz, Rafał Trzaskowski) Article 4 – paragraph 1 – point 9	
<i>Commission Proposal</i>	<i>Amendment</i>
(9) ‘personal data breach’ means <b>a breach of security leading to</b> the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;	(9) ‘personal data breach’ means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
Comment: This is a good amendment, see comment to Amendment 767.	

Amendment 772 (Petru Constantin Luhan) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <b>all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;</b>	(10) ‘genetic data’ means <b>information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;</b>

Comment:

Amendment 773 (Alexander Alvaro) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means all data, <i>of whatever type, concerning the characteristics</i> of an individual which <i>are</i> inherited or acquired during early prenatal development;	<i>(10) ‘genetic data’ means all personal data, relating to the genetic characteristics of an individual which have been inherited or acquired during early prenatal development as they result from an analysis of a biological sample from the individual in question, in particular by chromosomal, deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis or analysis of any other element enabling equivalent information to be obtained;</i>
Comment:	

Amendment 774 (Axel Voss) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <i>all data, of whatever type, concerning the characteristics</i> of an individual which <i>are inherited or acquired during early prenatal development;</i>	(10) ‘genetic data’ means <i>information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;</i>
Comment:	

Amendment 775 (Claude Moraes, Glenis Willmott) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <i>all data, of whatever type, concerning the characteristics</i> of an individual which <i>are inherited or acquired during early prenatal development;</i>	(10) ‘genetic data’ means <i>information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person;</i>
Comment:	

Amendment 776 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <i>all data, of whatever type, concerning the characteristics</i> of an individual which <i>are inherited or acquired during early prenatal development;</i>	(10) ‘genetic data’ means <i>information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;</i>

Comment:

Amendment 776 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <i>all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development;</i>	(10) ‘genetic data’ means <i>information on the hereditary characteristics, or alteration thereof, of an identified or identifiable person, obtained through nucleic acid analysis;</i>
Comment:	

Amendment 777 (Ewald Stadler) Article 4 – paragraph 1 – point 10	
<i>Commission Proposal</i>	<i>Amendment</i>
(10) ‘genetic data’ means <i>all data, of whatever type, concerning the characteristics of an individual which are inherited or acquired during early prenatal development,</i>	(10) ‘genetic data’ means data <i>obtained by means of genetic testing or genetic analysis performed in connection with genetic testing regarding genetic characteristics. Genetic characteristics are hereditary information of human origin which is inherited or acquired during conception or up until birth;</i>
Comment:	

Amendment 778 (Alexander Alvaro) Article 4 – paragraph 1 – point 11	
<i>Commission Proposal</i>	<i>Amendment</i>
(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;	(11) ‘biometric data’ means any <i>personal</i> data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;
Comment: Adding “personal” might undermine the “single out” aspect that's necessary in the definition of the data subject.	

Amendment 779 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 11	
<i>Commission Proposal</i>	<i>Amendment</i>
(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;	(11) ‘biometric data’ means any <i>personal</i> data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;

Comment: Adding “personal” might undermine the “single out” aspect that's necessary in the definition of the data subject.

Amendment 780 (Ewald Stadler) Article 4 – paragraph 1 – point 11	
<i>Commission Proposal</i>	<i>Amendment</i>
(11) ‘biometric data’ means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data;	(11) 'biometric data' means any data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images, or dactyloscopic data, <b>but not signatures</b> ;
Comment:	

Amendment 781 (Claude Moraes, Glenis Willmott) Article 4 – paragraph 1 – point 12	
<i>Commission Proposal</i>	<i>Amendment</i>
(12) ‘data concerning health’ means any information which relates to the physical or mental health of an individual, or to the provision of health services to the individual;	(12) ‘data concerning health’ means any <b>personal</b> information which relates to the physical or mental health of an individual, or to the provision of health services to the individual;
Comment: Adding “personal” might undermine the “single out” aspect that's necessary in the definition of the data subject.	

Amendment 782 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 12	
<i>Commission Proposal</i>	<i>Amendment</i>
(12) ‘data concerning health’ means <b>any information</b> which relates to the physical or mental health of an individual, or to the provision of health services to the individual;	(12) ‘data concerning health’ means <b>personal data</b> which relates to the physical or mental health of an individual, or to the provision of health services to the individual;
Comment: Adding “personal” might undermine the “single out” aspect that's necessary in the definition of the data subject.	

Amendment 783 (Louis Michel) Article 4 – paragraph 1 – point 12	
<i>Commission Proposal</i>	<i>Amendment</i>
(12) ‘data concerning health’ means any information which relates to the physical or mental health of an <b>individual, or to the provision of health services to the</b> individual;	(12) ‘data concerning health’ means any information which directly relates to the physical or mental health of an individual;
Comment:	

Amendment 784 (Sophia in 't Veld) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;	(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; <b><i>the location of the controller’s headquarters is given priority in cases where it is not clear where the main decisions as to the purposes, conditions and means of the processing are taken;</i></b> if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;
Comment:	

Amendment 785 (Alexander Alvaro) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;	(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union, <b><i>and if it has no central administration in the Union the main establishment is the place where the main processing activities take place. As regard to any natural or legal person, public authority, agency or any other body which acts both as a controller and as a processor, ‘main establishment’ means the place where it is determined to have its main establishment in its capacity of controller;</i></b>
Comment:	

Amendment 786 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Lara Comi, Monika Hohlmeier, Georgios Papanikolaou) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means <i>as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;</i>	(13) ‘main establishment’ means <i>the location as determined by the data controller or data processor on the basis of the following transparent and objective criteria: the location of the group’s European headquarters, or, the location of the company within the group with delegated data protection responsibilities, or, the location of the company which is best placed (in terms of management function, administrative capability etc) to address and enforce the rules as set out in this Regulation, or, the place where the main decisions as to the purposes of processing are taken for the regional group;</i>
Comment:	

Amendment 787 (Cornelia Ernst, Marie-Christine Vergiat) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;	(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. <b><i>In order to determine main processing activities, factual elements like the physical location of data servers, the centralization of core processing activities, or the dominant influence of one particular establishment should be taken into account.</i></b> As regards the processor, ‘main establishment’ means the place of its central administration in the Union;
Comment:	



Amendment 788 (Jacek Protasiewicz, Rafał Trzaskowski) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, <b>‘main establishment’ means the place of its central administration in the Union;</b>	(13) ‘main establishment’ means as regards the controller, the place of its establishment in the Union where the main decisions as to the purposes, conditions and means of the processing of personal data are taken. <b><i>In case of a group of undertakings, it is the place of establishment of the company with the dominant position over rest of the group as regards data protection policy.</i></b> If no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, <b><i>the same rules apply. The competent authority shall be informed by the controller and processor of the designation of a ‘main establishment’;</i></b>
Comment:	

Amendment 789 (Agustín Díaz de Mera Gacía Consuegra, Teresa Jiménez-Becerril Barrio) Article 4 – paragraph 1 – point 13	
<i>Commission Proposal</i>	<i>Amendment</i>
(13) ‘main establishment’ means as regards the controller, the place <i>of its establishment</i> in the Union where the main decisions <i>as to the purposes, conditions and means of the processing of personal data are taken; if no decisions as to the purposes, conditions and means of the processing of personal data are taken in the Union, the main establishment is the place where the main processing activities in the context of the activities of an establishment of a controller in the Union take place. As regards the processor, ‘main establishment’ means the place of its central administration in the Union;</i>	(13) ‘main establishment’ means <b><i>both</i></b> as regards the controller <b><i>and as regards the processor</i></b> , the place <b><i>constituting</i></b> its <b><i>official seat</i></b> in the Union, <b><i>if that is the place</i></b> where the main decisions <b><i>of the institution, enterprise, or group are taken, or the latter place, if different;</i></b>
Comment:	

Amendment 790 (Axel Voss) Article 4 – paragraph 1 – point 13 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(13a) ‘competent supervisory authority’ means the supervisory authority which shall be solely competent for the supervision of a controller in accordance with Article 51(2), (3) and (4);</i>
Comment:	

Amendment 791 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 13 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(13a) ‘competent supervisory authority’ means the supervisory authority which shall be solely competent for the supervision of a controller in accordance with Article 51(2), (3) and (4);</i>
Comment:	

Amendment 792 (Alexander Alvaro) Article 4 – paragraph 1 – point 14	
<b>Commission Proposal</b>	<b>Amendment</b>
(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts <b>and may be addressed by any supervisory authority and other bodies in the Union</b> instead of the controller, with regard to the obligations of the controller under this Regulation;	(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts instead of the controller, with regard to the obligations of the controller under this Regulation;
Comment:	

Amendment 793 (Axel Voss) Article 4 – paragraph 1 – point 14	
<b>Commission Proposal</b>	<b>Amendment</b>
(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts and <b>may</b> be addressed by <b>any</b> supervisory authority and other bodies in the Union instead of the controller, with regard to the obligations of the controller under this Regulation;	(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts and <b>shall</b> be addressed by <b>the competent</b> supervisory authority and other bodies in the Union instead of the controller, with regard to the obligations of the controller under this Regulation;
Comment:	

Amendment 794 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 14	
<i>Commission Proposal</i>	<i>Amendment</i>
(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts <b>and may be addressed by any supervisory authority and other bodies in the Union instead of the controller</b> , with regard to the obligations of the controller under this Regulation;	(14) ‘representative’ means any natural or legal person established in the Union who, explicitly designated by the controller, acts <b>instead of the controller and shall only be addressed by the competent supervisory authority</b> , with regard to the obligations of the controller under this Regulation;
Comment:	

Amendment 795 (Axel Voss) Article 4 – paragraph 1 – point 17	
<i>Commission Proposal</i>	<i>Amendment</i>
(17) ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings;	(17) ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State of the Union for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings <b>in or outside the Union</b> ;
Comment:	

Amendment 796 (Alexander Alvaro) Article 4 – paragraph 1 – point 18	
<i>Commission Proposal</i>	<i>Amendment</i>
(18) ‘child’ means any person below the age of <b>18 years</b> ;	(18) ‘child’ means any person below the age of <b>14 years</b> ;
Comment:	

Amendment 797 (Axel Voss) Article 4 – paragraph 1 – point 18	
<i>Commission Proposal</i>	<i>Amendment</i>
(18) ‘child’ means any person below the age of <b>18 years</b> ;	(18) ‘child’ means any person below the age of <b>13 years</b> ;
Comment:	

Amendment 798 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 18	
<i>Commission Proposal</i>	<i>Amendment</i>
(18) ‘child’ means any person below the age of <b>18 years</b> ;	(18) ‘child’ means any person below the age of <b>13 years</b> ;
Comment:	

Amendment 799 (Josef Weidenholzer) Article 4 – paragraph 1 – point 18	
<i>Commission Proposal</i>	<i>Amendment</i>
(18) ‘ <b>child</b> ’ means any person below the age of 18 years;	(18) ‘ <b>minors</b> ’ means any person below the age of 18 years;
Comment:	

Amendment 800 (Marie-Christine Vergiat) Article 4 – paragraph 1 – point 18 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(18a) ‘archive services’ means public authorities, public services or legal persons, who, in accordance with Union law or the law of the Member State concerned, have as their main or mandatory task the collection, conservation, classification, dissemination of information about and exploitation of archives in the public interest, in particular with a view to substantiating the rights of natural persons or legal persons established under public and private law, or for the purposes of historical, statistical or scientific research;</i>
Comment:	

Amendment 801 (Cornelia Ernst) Article 4 – paragraph 1 – point 19	
<i>Commission Proposal</i>	<i>Amendment</i>
(19) ‘supervisory authority’ means a public authority which is established by a Member State in accordance with Article 46.	<i>(19) Does not affect the English version.</i>
Comment:	

Amendment 802 (Axel Voss) Article 4 – paragraph 1 – point 19	
<b>Commission Proposal</b>	<b>Amendment</b>
(19) ‘supervisory authority’ means a public authority which is established by a Member State in accordance with Article 46.	<i>(19) Does not affect the English version.</i>
Comment:	

Amendment 803 (Axel Voss) Article 4 – paragraph 1 – point 19 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(19a) ‘financial crime’ means criminal offences in connection with organised crime, racketeering, terrorism, terrorist financing, trafficking in human beings, migrant smuggling, sexual exploitation, trafficking in narcotic drugs and psychotropic substances, illegal arms trafficking, trafficking in stolen goods, corruption, bribery, fraud, counterfeiting currency, counterfeiting and piracy of products, environmental offences, kidnapping, illegal restraint and hostage-taking, robbery, theft, smuggling, offences related to taxation, extortion, forgery, piracy, insider trading and market manipulation.</i>
Comment: This amendment has nothing to do with the Data Protection Regulation.	

Amendment 804 (Nils Torvalds) Article 4 – paragraph 1 – point 19 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(19a) ‘data protection officer’ means a natural or legal person or a team of professionals, with the necessary professional experience and expertise required to perform the duties stemming from and outlined in this Regulation, who are employed or designated by the controller or the processor.</i>
Comment:	

Amendment 805 (Adina-Ioana Vălean, Jens Rohde) Article 4 – paragraph 1 – point 19 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19a) ‘financial crime’ means criminal offences in connection with organised crime, racketeering, terrorism, terrorist financing, trafficking in human beings, migrant smuggling, sexual exploitation, trafficking in narcotic drugs and psychotropic substances, illegal arms trafficking, trafficking in stolen goods, corruption, bribery, fraud, counterfeiting currency, counterfeiting and piracy of products, environmental offences, kidnapping, illegal restraint and hostage-taking, robbery, theft, smuggling, offences related to taxation, extortion, forgery, piracy, insider trading and market manipulation.</i>
Comment:	

Amendment 806 (Sophia in 't Veld) Article 4 – paragraph 1 – point 19 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19a) ‘cloud service’ means the provision to the public of data processing or storage services using shared remote resources by means of an electronic communications network;</i>
Comment: It is clearly important to have a meaningful definition of 'cloud services'.	

Amendment 807 (Monika Hohlmeier, Axel Voss) Article 4 – paragraph 1 – point 19 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19a) ‘blocking’ means marking stored personal data in order to restrict their further processing;</i>
Comment: The terminology is confusing, “blocking” invokes “filtering” and blocking in itself is not a precise technology or method. It would also undermine legal clarity for controllers.	

Amendment 808 (Ewald Stadler) Article 4 – paragraph 1 – point 19 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19a) ‘anonymising’ means altering personal data in such a manner that all the information relating to a data subject becomes impossible to connect with a particular or identifiable natural person or can only be so connected by means of a disproportionate</i>

	<i>effort in terms of time, cost and labour;</i>
Comment: The definition of anonymising means that the data cannot be re-identified, so adding disproportionate effort is misleading.	

Amendment 809 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 4 – paragraph 1 – point 19 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19a) ‘official statistics’ means quantitative and qualitative, aggregated and representative information characterising a collective phenomenon in a considered population;</i>
Comment:	

Amendment 810 (Monika Hohlmeier) Article 4 – paragraph 1 – point 19 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19b) ‘erasure’ means rendering stored personal data unrecognisable;</i>
Comment: This is a bad amendment, erasure means erasing not anonymising data.	

Amendment 811 (Ewald Stadler) Article 4 – paragraph 1 – point 19 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19b) ‘pseudonymising’ means replacing the name and other identifying features with a mark for the purpose of preventing or seriously impeding the identification of the data subject;</i>
Comment: This amendment is a terrible definition of pseudonymising.	

Amendment 812 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 4 – paragraph 1 – point 19 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19b) ‘electoral rolls’ means personal data, and data relating to the place of residence, of persons entitled to vote;</i>
Comment:	

Amendment 813 (Ewald Stadler) Article 4 – paragraph 1 – point 19 c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19c) ‘third party’ means a natural or legal person, authority, institution or any other entity, with the exception of the data subject, the controller, the processor and persons who are authorised to process the data under the direct responsibility of the controller or of the processor;</i>
Comment:	

Amendment 814 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 4 – paragraph 1 – point 19 c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(19c) ‘information society services’ means services provided at the recipient’s individual request, at a distance, and by electronic means, that is to say, the service is sent initially and received at its destination by means of electronic equipment for the processing, including digital compression, and storage of data and is transmitted, conveyed, and received entirely by wire, by radio, by optical means, or by any other electromagnetic means.</i>
Comment:	

Amendment 815 (Dimitrios Droutsas) Article 5 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
Personal data <b>must</b> be:	Personal data <b>shall</b> be:
Comment:	

Amendment 816 (Timothy Kirkhope) Article 5 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) processed lawfully, <b>fairly and in a</b> transparent manner in relation to the data subject;	(a) processed lawfully, <b>proportionate and</b> transparent manner in relation to the data subject;
Comment:	



Amendment 817 (Ewald Stadler) Article 5 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) processed lawfully, fairly and in a transparent manner <i>in relation to the data subject</i> ;	(a) processed lawfully, fairly and in a transparent manner;
Comment:	

Amendment 818 (Jens Rohde, Adina-Ioana Vălean) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, explicit and legitimate purposes and not further processed in a way <i>incompatible</i> with those purposes;	(b) collected for specified, explicit and legitimate purposes and not further processed in a way <i>irreconcilable</i> with those purposes;
Comment: Compatibility is an important pillar of data protection law and should be kept in the text. Data can be processed further for compatible purposes.	

Amendment 819 (Louis Michel) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;	(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes, <i>where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in Article 6(1)(a) to (f), as well as respect all other dispositions of this Regulation</i> ;
Comment: This addition undermines the principle of compatibility. Further compatible processing will always require a legal basis. Incompatible processing is prohibited and should remain prohibited as it will lead to unenvisioned consequences for data subjects. Article 5 deals with principles, not further qualifications and exclusions to those principles. Such qualifications and exclusions must always be dealt with under relevant articles.	

Amendment 820 (Timothy Kirkhope) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, <i>explicit</i> and legitimate purposes and not further processed in a way incompatible with those purposes;	(b) collected for specified, <i>clear</i> and legitimate purposes and not further processed in a way incompatible with those purposes;
Comment:	

Amendment 821 (Sarah Ludford, Charles Tannock) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;	(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; <b><i>further processing of data for health, historical, statistical, or scientific purposes shall not be considered as incompatible subject to compliance with the conditions in Article 81 or Article 83 as appropriate;</i></b>
Comment: This amendment is potentially open to abuse - for example a commercial entity could claim it is processing data further for statistical or research reasons. Exceptions should be kept within relevant articles, in this case 81 and 83, not within the definitions.	

Amendment 822 (Conerlia Ernst, Marie-Christine Vergiat) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, explicit and legitimate purposes <b><i>and</i></b> not further processed in a way incompatible with those purposes;	(b) collected for specified, explicit and legitimate purposes, not further processed in a way incompatible with those purposes <b><i>and processed in a proportionate manner to that purpose (purpose limitation);</i></b>
Comment:	

Amendment 823 (Marie-Christine Vergiat) Article 5 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;	(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; <b><i>further processing carried out by archive services in accordance with Member State law shall be deemed compatible with those purposes and shall be subject to the provisions of Article 83a;</i></b>
Comment: This amendment is potentially open to abuse - for example a commercial entity could claim it is processing data further for statistical or research reasons. Exceptions should be kept within relevant articles, in this case 81 and 83, not within the definitions.	

Amendment 824 (Louis Michel) Article 5 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) adequate, relevant, and <b>limited to the minimum necessary</b> in relation to the purposes for which they are processed; <b>they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;</b>	(c) adequate, relevant, and <b>not excessive</b> in relation to the purposes for which they are processed;
Comment:	

Amendment 825 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 5 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) adequate, relevant, and <b>limited to the minimum necessary</b> in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;	(c) adequate, relevant, and <b>not excessive</b> in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;
Comment:	

Amendment 826 (Ewald Stadler) Article 5 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; <b>they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;</b>	(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed;
Comment:	

Amendment 827 (Salvatore Iacolino) Article 5 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) adequate, relevant, and <b>limited to the minimum necessary in relation</b> to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;	(c) adequate, relevant, and <b>proportionate</b> to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;
Comment:	

Amendment 828 (Axel Voss) Article 5 – paragraph 1 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;	(d) accurate and <b>where necessary</b> kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without <b>undue</b> delay;
Comment:	

Amendment 829 (Adina-Ioana Vălean, Jens Rohde) Article 5 – paragraph 1 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;	(d) accurate and <b>where necessary</b> kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without <b>undue</b> delay;
Comment:	

Amendment 830 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 5 – paragraph 1 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;	(d) accurate and <b>where necessary</b> kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;

Comment:

**Amendment 831 (Ewald Stadler)  
Article 5 – paragraph 1 – point d**

<i>Commission Proposal</i>	<i>Amendment</i>
(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;	(d) accurate and, <b>if necessary</b> , kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or, <b>if this is not possible, blocked or</b> rectified without delay;

Comment:

**Amendment 832 (Axel Voss)  
Article 5 – paragraph 1 – point e**

<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific <b>research</b> purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific purposes in accordance with the rules and conditions of <b>Articles 81 and 83</b> and if a periodic review is carried out to assess the necessity to continue the storage;

Comment:

**Amendment 833 (Jan Mulder)  
Article 5 – paragraph 1 – point e**

<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage <b>as well as for dispute resolution purposes</b> ;

Comment:

Amendment 834 (Claude Moraes, Glenis Willmot) Article 5 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific <b>research</b> purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for <b>health purposes in accordance with Article 81 or for</b> historical, statistical or scientific purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;
Comment:	

Amendment 835 (Adina-Ioana Vălean, Jens Rohde) Article 5 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific <b>research</b> purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;
Comment:	

Amendment 836 (Dimitrios Droutsas) Article 5 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification <b>or singling out</b> of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the

	storage;
Comment: This amendment is consistent with what should be the full definition of personal data by adding the important ‘singling out’ wording.	

Amendment 837 (Louis Michel) Article 5 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage <b>and technical and organizational measures are put in place to limit access to the data only for the purposes of historical, statistical and scientific research;</b>
Comment:	

Amendment 838 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 5 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; <b>personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions</b> of Article 83 <b>and if a periodic review is carried out to assess the necessity to continue the storage;</b>	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed, <b>without prejudice to the provisions</b> of Article 83;
Comment: This amendment simplifies by cross-referencing to the original article.	

Amendment 839 (Marie-Christine Vergiat)  
Article 5 – paragraph 1 – point e

<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and <b>if a periodic review is carried out to assess the necessity to continue the storage;</b>	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and <b>until such time as it is clear that continued storage is no longer necessary; personal data may be stored for longer periods insofar as the data will be processed by archive services in accordance with Member State law, in keeping with the conditions laid down in Article 83a;</b>
Comment: This and many other amendments turn a simple principle statement into a provision that exists elsewhere; principles should be left as principles and cross-referenced to the relevant articles/exceptions.	

Amendment 840 (Ewald Stadler)  
Article 5 – paragraph 1 – point e

<i>Commission Proposal</i>	<i>Amendment</i>
(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;	(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods <b>if statutory retention rules so require or</b> insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;
Comment:	

Amendment 841 (Sarah Ludford)  
Article 5 – paragraph 1 – point e a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>(ea) protected against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;</b>
Comment: This is covered by article 30 section 2 etc. and it's not really a principle.	



Amendment 842 (Sarah Ludford) Article 5 – paragraph 1 – point e b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(eb) afford appropriate safeguards when processed outside the EEA. Such processing will remain the responsibility of the controller;</i>
Comment: This amendment is covered by article 40 which states that data transferred outside the EEA must meet the conditions of the articles in Chapter V; phrasing of ‘appropriate’ here may create confusion as it’s the phrasing used in Art 42.	

Amendment 843 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 5 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(f) processed under the responsibility and liability of the controller, who shall ensure and demonstrate for each processing operation the compliance with the provisions of this Regulation.</i>	<i>deleted</i>
Comment:	

Amendment 844 (Jan Mulder) Article 5 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processed under the responsibility and liability of the controller, who shall ensure and demonstrate for <b>each</b> processing operation the compliance with the provisions of this Regulation.	(f) processed under the responsibility and liability of the controller, who shall <b>be able to</b> ensure and demonstrate for <b>its</b> processing operations the compliance with the provisions of this Regulation.
Comment:	

Amendment 845 (Alex Voss) Article 5 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processed under the responsibility and liability of the controller, who shall ensure and <b>demonstrate for each processing operation the compliance</b> with the provisions of this Regulation.	(f) processed under the responsibility and liability of the controller, who shall ensure and, <b>if required to do so, demonstrate compliance of the controller’s processing</b> with the provisions of this Regulation <b>to the supervisory authority having competence under Article 51(2).</b>
Comment: This amendment brings a good clarification.	

Amendment 846 (Dimitrios Droutsas) Article 5 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processed under the responsibility and liability of the controller, who shall ensure and demonstrate for <b>each</b> processing operation the compliance with the provisions of this Regulation.	(f) processed under the responsibility and liability of the controller, who shall ensure and <b>be able to</b> demonstrate for each processing operation the compliance with the provisions of this Regulation;
Comment:	

Amendment 847 (Ewald Stadler) Article 5 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processed under the responsibility <b>and liability</b> of the controller, who shall ensure <b>and demonstrate</b> for each processing operation the compliance with the provisions of this Regulation.	(f) processed under the responsibility of the controller, who shall ensure for each processing operation the compliance with the provisions of this Regulation.
Comment: This amendment considerably weakens the principle.	

Amendment 848 (Ewald Stadler) Article 5 – paragraph 1 – point f a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(fa) personal data shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data, for example pseudonymised or anonymised data;</i></b>
Comment: Pseudonymised data is personal data.	

Amendment 849 (Dimitrios Droutsas) Article 5 – paragraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1a. Processing of personal data shall be organised and carried out in a way that ensures compliance with the principles referred to in paragraph 1.</i></b>
Comment:	

**Amendment 850 (Alexander Alvaro)  
Article 5 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 5a</i></p> <p style="text-align: center;"><i>Respect to context</i></p> <p><i>Controllers in cooperation with processors shall implement appropriate technical and organisational measures and procedures in respect to the context of the data processing, in particular where:</i></p> <p><i>(a) processing of personal data is carried out in the context of product and service fulfilment;</i></p> <p><i>(b) processing of personal data is carried out solely in the context of fraud prevention or is strictly necessary to ensure network and information security and the security of related services;</i></p> <p><i>(c) processing of personal data is carried out in the context of legal, regulatory or law enforcement obligations which the controller is subject to in the Union;</i></p> <p><i>(d) processing of personal data is carried out in the context of internal processing operations such as accounting and controlling or business to business data transfers;</i></p> <p><i>(e) processing of personal data is carried out in the context of journalistic, artistic or literary expression;</i></p> <p><i>(f) processing of personal data is carried out in the context of historical, statistical and scientific research;</i></p> <p><i>(g) processing of personal data is carried out in the employment context.</i></p> <p><i>(h) processing of personal data is carried out in the health context.</i></p>
<p>Comment: This addition will only create uncertainty as to its purpose, as most of the items listed are already covered by Article 6, lawful processing.</p>	

**Amendment 851 (Alexander Alvaro)  
Article 5 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
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**Article 5b**

**Respect to risk**

**Controllers shall implement appropriate technical and organisational measures and procedures in respect to the risks represented by the data processing, in particular where:**

**(a) personal data of more than 5000 data subjects during any consecutive 12-month period are processed;**

**(b) special categories of data as laid down in Article 9.1 are processed;**

**(c) personal data of children are processed;**

**(d) not solely pseudonymised data are processed;**

**(e) processing operations in case of a breach may adversely affect the personal data or privacy of the data subject causing identity theft, financial or physical harm or significant humiliation or damage to reputation;**

**(f) a systematic and extensive evaluation is carried out as referred to under Article 4, paragraph 1, point 2 d (new);**

**(g) information on sex life, health, race and ethnic origin or for the provision of health care, epidemiological researches, or surveys of mental or infectious diseases are processed and where the data are processed for taking measures or decisions regarding specific individuals on a large scale;**

**(h) publicly accessible areas are monitored, especially when using optic-electronic devices (video surveillance) on a large scale;**

**(i) personal data are processed in large scale filing systems on genetic data or biometric data;**

**(j) processing operations require the consultation of the supervisory authority pursuant to point (b) of Article 34(2).**

Comment: Most of the items listed are covered by articles elsewhere in the regulation, so this new article would create uncertainty as it seems to imply less security for less risk; furthermore it is not future-proof as with technological developments even what seems an innocuous piece of data can add up to de-

anonymising or building a complete profile. It would possible also generate increased layers of bureaucracy, as the same controller may hold data with different measures of risk, and guidance would need to be devised to explain how to measure the risks in the first place.

**Amendment 852 (Alexander Alvaro)**  
**Article 5 c (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>Article 5c</i></p> <p><b><i>Processing not allowing direct identification</i></b></p> <p><b><i>1. If the data processed by a controller do not permit the controller to directly identify a natural person, the controller shall not be obliged to acquire additional information in order to directly identify the data subject for the sole purpose of complying with any provision of this Regulation.</i></b></p> <p><b><i>2. Where the data controller is unable to comply with a provision of this Regulation because the data processed by the controller do not permit the controller to directly identify a natural person, the controller shall not be obliged to comply with that particular provision of this Regulation.</i></b></p>
<p>Comment: See comment on re pseudonymisation above. The definition of personal data states ‘directly or indirectly’.</p>	

**Amendment 853 (Birgit Sipper, Josef Weidenholzer)**  
**Article 6 – paragraph 1 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data subject has given consent to the processing of their personal data for one <b><i>or more</i></b> specific <b><i>purposes</i></b> ;	(a) the data subject has given consent to the processing of their personal data for one specific <b><i>purpose</i></b> ;
<p>Comment: Consent should indeed be specific but giving consent for more specific purposes at the same time can be more efficient than asking consent after consent.</p>	

**Amendment 854 (Dimitrios Droutsas)**  
**Article 6 – paragraph 1 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data subject has given consent to the processing of their personal data for one or more specific purposes;	(a) the data subject has given <b><i>explicit and informed</i></b> consent to the processing of their personal data for one or more specific purposes;
<p>Comment:</p>	

Amendment 855 (Cornelia Ernst, Marie-Christine Vergiat) Article 6 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data subject has given consent to the processing of their personal data for one or more specific purposes;	(a) the data subject has given consent to the processing of their personal data for one or more specific purposes, <i>in the form as described in Article 7;</i>
Comment:	

Amendment 856 (Axel Voss) Article 6 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;	<i>(b) processing is necessary for the performance or execution of a contract or of collective agreements and company-level agreements, to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;</i>
Comment: Collective agreements or company level agreements can only form a legal basis when the data subject is in person a party to such an agreement.	

Amendment 857 (Axel Voss) Article 6 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	<i>(c) processing is necessary for compliance with a legal or contractual obligation based in Union or national law of a Member State, regulatory rule, guidance, industry code of practice, either domestically or internationally or for a permission of supervisory requirement or a different legal rule to which the controller is subject including the requirements of supervisory authorities;</i>
Comment: This is a very confusing addition re contractual relations. This should remain under 6(1)(b).	

Amendment 858 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) processing is <i>necessary for compliance with a legal obligation to which the controller is subject;</i>	<i>(c) processing is solely carried out in the context referred to under Article 5a(2), (3) or (6) in accordance with Article 83;</i>
Comment: This is a very bad amendment as it creates a legal ground for all forms of processing in a specific context or forms of processing that do not entail certain risks according to these MEPs. The factors presented under 'context' and 'risk' in the proposed articles 5a and 5b do not justify this. No form of processing would ever justify this, as a case-by-case review should always take place as well as a balance between the legitimate interests of the data controller and the rights and interests of the data	

subject.

**Amendment 859 ( Adina-Ioana Vălean, Jens Rohde)**

**Article 6 – paragraph 1 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation, <b><i>regulatory rule, guidance, industry code of practice, either domestically or internationally</i></b> to which the controller is subject <b><i>including the requirements of supervisory authorities</i></b> ;

Comment: This amendment creates major loopholes. Compliance with financial regulations may already be covered. Compliance with codes of conduct can take place on the 'legitimate interest' clause after such codes have been approved by a DPA.

**Amendment 860 ( Louis Michel)**

**Article 6 – paragraph 1 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation to which the controller <b><i>or the group of undertakings of which the controller is a member or any other member thereof</i></b> is subject;

Comment: This is an undue expansion of the scope of the Regulation.

**Amendment 861 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski)**

**Article 6 – paragraph 1 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for <b><i>exercise of the right or</i></b> compliance with a legal obligation to which the controller is subject;

Comment: This is a very unclear addition. Exercise of rights should fall under the 'legitimate interest' clause and a balancing test between the interests of the party should always be performed before allowing a data controller to pursue its 'right'.

**Amendment 862 (Sarah Ludford)**

**Article 6 – paragraph 1 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation <b><i>or regulatory rule or industry code of practice, either domestically or internationally</i></b> , to which the controller is subject;

Comment: This amendment creates major loopholes. 'Industry codes of practice are not at all the same as 'regulatory requirements'. Compliance with regulatory requirements laid down in law is already covered. Compliance with codes of conduct can take place on the 'legitimate interest' clause after such codes have been approved by a DPA and a balance between the interests of the data controller and rights of the data

subject has been performed.

**Amendment 863 (Monika Hohlmeier)**

**Article 6 – paragraph 1 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation <b><i>under Union law or the law of a Member State</i></b> to which the controller is subject;
Comment:	

**Amendment 864 (Véronique Mathieu Houillon, Axel Voss)**

**Article 6 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation to which the controller, <b><i>the group of companies of which the controller is a member or any other member of that group of companies</i></b> is subject
Comment: An undue expansion of this legal ground is dangerous as it creates rights beyond the rights of an actual data controller. It will also create a lot of extra work for data controllers as they will now need to pull personal data from subsidiaries to comply with legal obligations where before they could dismiss a request for data by stating that a certain legal entity was not the controller and thus did not have to comply. This amendment is bad for citizens as well as for business.	

**Amendment 865 (Ewald Stadler)**

**Article 6 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) <b><i>processing is necessary for compliance with</i></b> a legal obligation to which the controller is subject;	(c) <b><i>a law or other legal provision</i></b> to which the controller is subject <b><i>requires or allows processing</i></b> ;
Comment: This is a very bad amendment, changing the legal ground from necessary compliance with the law to all situations where a law 'allows' processing. Totally unacceptable and impossible to reconcile with the system of data protection law. In fact, this would remove the need for any other basis for processing of personal data.	

**Amendment 866 (Salvatore Iacolino)**

**Article 6 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) processing is necessary for compliance with a legal obligation to which the controller is subject;	(c) processing is necessary for compliance with a legal obligation to which the controller is subject, <b><i>including activities carried out for security reasons or to prevent and detect criminal offences</i></b> ;
Comment: This is a bad amendment. Data related to criminal offences are sensitive data, article 9 contains a separate regime. Security reasons is a form of 'legitimate interest'.	



Amendment 867 (Axel Voss) Article 6 – paragraph 1 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) processing of data necessary to ensure network and information security;</i>
Comment:	

Amendment 868 (Adina-Ioana Vălean, Jens Rohde) Article 6 – paragraph 1 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) processing of data necessary to ensure network and information security;</i>
Comment:	

Amendment 869 (Axel Voss) Article 6 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;	(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller <b><i>or the third party to whom the data is transferred;</i></b>
Comment: This is a bad and dangerous amendment. If a party can process data on behalf of a third party that has authority vested in itself, it would basically lead to allowing private policing (by a party on behalf of a third party – the police) with authority.	

Amendment 870 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;	(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller <b><i>or the third party to whom the data is transferred;</i></b>
Comment: This is a bad and dangerous amendment. If a party can process data on behalf of a third party that has authority vested in itself, it would basically lead to allowing private policing (by a party on behalf of a third party – the police) with authority.	

Amendment 871 (Adina-Ioana Vălean, Jens Rohde)

Article 6 – paragraph 1 – point e

<i>Commission Proposal</i>	<i>Amendment</i>
(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;	(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller <b>or the third party to whom the data is transferred;</b>
Comment: This is a bad and dangerous amendment. If a party can process data on behalf of a third party that has authority vested in itself, it would basically lead to allowing private policing (by a party on behalf of a third party – the police) with authority.	

Amendment 872 (Dimitrios Droutsas)

Article 6 – paragraph 1 – point f

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>	<b><i>deleted</i></b>
Comment:	

Amendment 873 (Alexander Alvaro, Nadja Hirsch)

Article 6 – paragraph 1 – point f

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by <b>a</b> controller, <b>except where such</b> interests <b>are overridden by the</b> interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by <b>the</b> controller <b>or by the third party or parties to whom the data are disclosed and of the legitimate expectations of the data subject based on his or her relationship with the controller, taking into account the interests or rights and freedoms of the controller to conduct a business as well as the</b> interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: The addition of third parties is a decrease in protection in comparison to the EC proposal. Data subjects will be confronted with interests of unknown third parties and will lose (all) control over their personal data.	

Amendment 874 (Adina-Ioana Vălean, Jens Rohde ) Article 6 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by <b>a</b> controller, <b>except where such</b> interests <b>are overridden by</b> the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by <b>the controller or by the third party or parties to whom the data are disclosed and the legitimate expectations of the data subject based on his or her relationship with the controller, taking into account the interests or rights and freedoms of the controller to conduct a business as well as</b> the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: See comment Amendment 873.	

Amendment 875 (Josef Weidenholzer) Article 6 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of <b>the legitimate</b> interests pursued by a controller, <b>except where such</b> interests are <b>overridden by</b> the interests or fundamental rights and freedoms of the data subject <b>which require protection of personal data, in particular where the data subject is a child.</b> This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) <b>points (a) to (e) do not apply, but</b> processing is necessary for the purposes of <b>predominant legitimate</b> interests pursued by a controller <b>and these</b> interests are <b>overriding</b> the interests or fundamental rights and freedoms of the data subject. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: This is a good amendment aiming to limit the vague and wide scoped 'legitimate interest' ground.	

Amendment 876 (Sarah Ludford) Article 6 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller <b>such as to detect crime or to prevent crime, fraud, loss or harm or to meet the legitimate expectations of the data subject in the efficient delivery of the service,</b> except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the

	performance of their tasks.
Comment: The examples provided are ok. The legitimate expectations of the data subject should not be a factor on the 'side' of the data controller.	

**Amendment 877 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski)**  
**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, <b>except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.</b> This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) <b>without prejudice to the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child,</b> processing is necessary for the purposes of the legitimate interests pursued by a controller, <b>in particular:</b>  <ul style="list-style-type: none"> <li>- <b>direct marketing for its own and similar products and services,</b></li> <li>- <b>the enforcement of the claims of the controller or of a third party on behalf of which the controller is acting in relation to the data subject, or for preventing or limiting damage by the data subject to the controller</b></li> </ul> This shall not apply to processing carried out by public authorities in the performance of their tasks.

Comment: This is a good amendment, aiming to limit the vague notion of legitimate interest by providing clear examples.

**Amendment 878 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Lara Comi, Hubert Pirker, Renate Sommer)**  
**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, <b>in particular where the data subject is a child.</b> <b>This shall not apply to</b> processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by, <b>or on behalf of a controller or a processor, or by a third party or parties in whose interest the data is processed, including for the security of processing,</b> except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, <b>such as in the case of processing data pertaining to a child.</b> <b>The interest or fundamental rights and freedoms of the data subject shall not override</b> processing carried out by public authorities in the performance of their tasks.

Comment: This is a bad amendment. The interests of processors should not be taken into account as they are engaged by controllers to serve processing in the controllers' interest. The addition of third parties is a decrease in protection in comparison to the EC proposal. Data subjects will be confronted with interests

of unknown third parties and will lose (all) control over their personal data.

**Amendment 879 (Sophia in't Veld)**

**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. <b><i>This shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. <b><i>Legitimate interest as a legal ground for processing can only be applied in a restrictive way, to the extent that it is strictly necessary for the purpose of the legitimate interest, and when no other legal ground is available for the specific purpose. The data controller shall in that case inform the data subject explicitly and separately. The controller shall also publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject.</i></b>

Comment: This is a reasonably good amendment that tries to limit the use of the legitimate interest ground and increase transparency vis a vis data subjects.

**Amendment 880 (Louis Michel)**

**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. <b><i>This shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller <b><i>or controllers or by a third party or parties to whom the data are disclosed</i></b> , except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Comment: The addition of third parties is a decrease in protection in comparison to the EC proposal. Data subjects will be confronted with interests of unknown third parties and will lose (all) control over their personal data. The deletion regarding 'public authorities' is a further decrease in protection. Public authorities should always use another ground to base their processing on.

**Amendment 881 (Cornelia Ernst, Marie-Christine Vergiat)**  
**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of <i>the</i> legitimate interests pursued by <i>a</i> controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, <i>in particular where</i> the data subject <i>is a child</i> . <i>This</i> shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) <i>Where none of the legal grounds for the processing of personal data referred to in paragraph 1 apply, processing of personal data shall be lawful if and to the extent that it is necessary for and proportionate to</i> the purposes of <i>well-defined</i> legitimate interests pursued by <i>the</i> controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require <i>the</i> protection of personal data. <i>The data controller shall in that case inform</i> the data subject <i>about the data processing explicitly and separately, and shall inform him of the possibility to seek redress via the supervisory authority. The controller shall also publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject. This paragraph</i> shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: This is a reasonably good amendment that tries to limit the use of the legitimate interest ground and increase transparency vis a vis data subjects.	

**Amendment 882 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)**  
**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, <i>or by a third party to whom the data are to be communicated</i> , except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: See comment Amendment 873.	

**Amendment 883 (Salvatore Iacolino)**  
**Article 6 – paragraph 1 – point f**

<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, <i>processor or third party to whom the data are disclosed but which are not to be disseminated</i> , except where such interests

freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks	are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: See comment Amendment 873. Please note that service providers should not be considered to have their own interests as they service the data controller. It is thus not necessary to include them.	

Amendment 884 (Ewald Stadler) Article 6 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, <b><i>in particular where the data subject is a child</i></b> . This shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller <b><i>or an entitled third party</i></b> , except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. This shall not apply to processing carried out by public authorities in the performance of their tasks.
Comment: Third party or 'entitled' third party does not make a difference. See comment to Amendment 873.	

Amendment 885 (Lidia Joanna Geringer de Oedenberg) Article 6 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where <b><i>such</i></b> interests <b><i>are overridden by the interests or</i></b> fundamental rights and freedoms <b><i>of the data subject which require protection of personal data</i></b> , in particular where the data subject is a child. <b><i>This</i></b> shall not apply to processing carried out by public authorities in the performance of their tasks.	(f) processing is necessary for the purposes of the legitimate interests pursued by a controller, except where <b><i>personal data require particular safeguarding by virtue of the overriding</i></b> interests <b><i>of protecting data subjects in connection with their</i></b> fundamental rights and freedoms. <b><i>This shall apply</i></b> in particular where the data subject is a child. <b><i>It</i></b> shall not apply to processing carried out by public authorities in the performance of their tasks. <b><i>Exemption from the scope of this provision may also be based on one or more of the other grounds set out in this paragraph.</i></b>
Comment: This is a bad amendment as it decreases the weight of the interest of the data subject. The addition regarding the 'exemption' is quite unclear.	

Amendment 886 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 1 – point f a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(fa) processing is necessary for the purposes of ensuring the ability of a network or an information system to resist accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity or</i></b>

	<i>confidentiality of stored or transmitted data and the security of the related services offered by or accessible via these networks and systems;</i>
Comment: This can be regarded as a fair example of legitimate interest provided it is balanced against data subjects rights.	

<b>Amendment 887 (Adina-Ioana Vălean, Jens Rohde)</b> <b>Article 6 – paragraph 1 – point f a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fa) processing is limited to pseudonymous data and the recipient of the service is given a right to object pursuant to Article 19(3);</i>
Comment: Declaring all forms of processing of pseudonymous data lawful – just because its pseudonymized – is unacceptable. It does not take any other risk factors into account, such as the purpose of the processing of these data. The right to object is not sufficient to mitigate these risks.	

<b>Amendment 888 (Louis Michel)</b> <b>Article 6 – paragraph 1 – point f a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fa) processing is necessary in order to ensure availability, reliability, confidentiality and security of the information and communications systems, in particular where this is necessary to discharge the controller's obligations under law, contract or under internal policies, aimed at complying with such obligations;</i>
Comment: This could be an example of a legitimate interest ground provided that these interests area balanced against data subjects interests. A part of this processing could be based on the contractual relation with the data subject as well.	

<b>Amendment 889 (Anna Hedh, Marita Ulvskog)</b> <b>Article 6 – paragraph 1 – point f a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fa) processings is necessary due to national practises for the social partners concerning collective agreements;</i>
Comment:	



Amendment 890 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Hubert Pirker, Lara Comi, Renate Sommer, Salvatore Iacolino) Article 6 – paragraph 1 – point f a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(fa) the data are collected from public registers lists or documents accessible by everyone;</i>
Comment: This is a bad amendment. The fact that data is publicly accessible does not in itself mean that the processing should always be justified.	

Amendment 891 (Timothy Kirkhope) Article 6 – paragraph 1 – point f a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(fa) processing is necessary in the interest of public safety, the welfare, safety, or health of an individual in line with fundamental rights and freedom;</i>
Comment: This is a very wide and far too generic loophole that is both unnecessary (all these interests can be grouped under 'legitimate interest') as well as very subjective ('necessary for welfare' – whose welfare and according to whom)? It won't provide any protection against data controllers doing exactly what they want without asking people's consent or another clear ground why they need to process certain data.	

Amendment 892 (Monika Hohlmeier) Article 6 – paragraph 1 – point f a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(fa) the processing of data to the extent strictly necessary for the purposes of ensuring network and information security, i.e. the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data, and the security of the related services offered by, or accessible via, these networks and systems;</i>
Comment: This could be an example of a legitimate interest ground provided that these interests are balanced against data subjects interests. A part of this processing could be based on the contractual relation with the data subject as well.	

Amendment 893 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 6 – paragraph 1 – point f a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>(fa) processing is necessary 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,</i>

	<i>management, planning and organization 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, as well as for the purpose of entering, updating, improving, and modifying employees' data processing systems, including technical security systems designed to protect employees' data against unauthorized access by third parties, including transformation, viruses and malware;</i>
Comment:	

Amendment 894 (Axel Voss) Article 6 – paragraph 1 – point f b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fb) processing is necessary for fraud detection and prevention purposes according to applicable financial regulation or established industry, or professional body, codes of practice;</i>
Comment: This could be an example of a legitimate interest ground provided that these interests area balanced against data subjects interests. A part of this processing could be based on the contractual relation with the data subject.	

Amendment 895 (Adina-Ioana Vălean, Jens Rohde) Article 6 – paragraph 1 – point f b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fa) processing is necessary in the interest of public safety, the welfare, safety, or health of an individual in line with fundamental rights and freedom;</i>
Comment: This is a bad amendment. The fact that data is publicly accessible does not in itself mean that the processing should always be justified.	

Amendment 896 (Louis Michel) Article 6 – paragraph 1 – point f b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>((fb) processing is necessary for the establishment, exercise or defence of legal claims;</i>
Comment: This could be an example of a legitimate interest ground provided, it is dangerous as it provides that these interests are balanced against data subjects interests.	

Amendment 897 (Adina-Ioana Vălean, Jens Rohde) Article 6 – paragraph 1 – point f c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fc) processing is necessary for the purpose of pseudonymisation or anonymisation of personal data;</i>
<p>Comment: This is not a goal in itself; if a party wants to pseudonymize data in order to further process these data, it should always have a separate legal basis. Allowing pseudonymization as a purpose in combination with the proposal that pseudonymized data can always be processed regardless of the <u>actual</u> purpose of the processing creates an unparalleled loophole. It is contradictory to the EU Charter which states that data 'concerning a person' deserve protection.</p>	

Amendment 898 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier) Article 6 – paragraph 1 – point f c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fc) processing is limited to pseudonymised data, where the data subject is adequately protected and the recipient of the service is given a right to object pursuant to Article 19(3);</i>
<p>Comment: Pseudonymised data cannot be processed without limitation just because the data is pseudonymised. This will create an unparalleled loophole not mitigated by article 19(3).</p>	

Amendment 899 (Adina-Ioana Vălean, Jens Rohde) Article 6 – paragraph 1 – point f d (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fd) processing is necessary for the purposes of ensuring the ability of a network or an information system to resist accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity or confidentiality of stored or transmitted data and the security of the related services offered by or accessible via these networks and systems;</i>
<p>Comment: This could be an example of a legitimate interest ground provided, it is dangerous as it provides that these interests are balanced against data subjects interests.</p>	

Amendment 900 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier) Article 6 – paragraph 1 – point f d (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fd) processing is necessary for the purpose of anonymisation or pseudonymisation of personal data;</i>
<p>Comment: This is not a goal in itself; if a party wants to pseudonymise data in order to further process these data, it should always have a separate legal basis. Allowing pseudonymisation as a purpose in combination with the proposal that pseudonymised data can always be processed regardless of the <u>actual</u></p>	

purpose of the processing creates an unparalleled loophole. It is contradictory to the EU Charter, which states that data 'concerning a person' deserve protection.

**Amendment 901 (Axel Voss)**  
**Article 6 – paragraph 1 – point f e (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fe) processing is necessary for legitimate internal purposes of groups of undertakings and where the interests of the data subjects concern are sufficiently addressed by internal data protection provisions or equivalent code of conducts as referred to Article 38c;</i>
<p>Comment: This is a bad amendment, extending the clause to a group of undertakings instead of limiting it to the controller. Also, the interests of a controller must be weighed against interests, not be merely addressed by data protection provisions etc.</p>	

**Amendment 902 (Sophia in't Veld)**  
**Article 6 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. The European Data Protection Board shall be entrusted with the task of further specifying when processing is justified for the purpose of the legitimate interests pursued by a controller as referred to in paragraph 1, and when the legitimate interest of the controller is overridden by the interests or fundamental rights and freedoms of the data subject.</i>
<p>Comment: This is a good amendment that promises clarification of a vague notion.</p>	

**Amendment 903 (Jan Philipp Albrecht)**  
**Article 6 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. If none of the legal grounds for the processing of personal data referred to in paragraph 1 apply, processing of personal data shall be lawful if and to the extent that it is necessary for the purposes of the legitimate interests pursued by the controller, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require the protection of personal data. The data controller shall in that case inform the data subject about the data processing explicitly and separately in accordance with Article 14(1). The controller shall also publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject. This paragraph shall not apply to</i>

	<i>processing carried out by public authorities in the performance of their tasks.</i>
Comment: This is a good amendment aiming to limit applicability and providing transparency of a vague clause.	

<b>Amendment 904 (Alexander Alvaro, Nadja Hirsch)</b> <b>Article 6 – paragraph 1 a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>1a. Processing of pseudonymized data shall be lawful.</i></b>
Comment: This amendment is not “promoting the use pseudonymization”, but simply stating that if a party wants to pseudonymize data pseudonymized data can always be processed regardless of the <u>actual</u> purpose of the processing. It creates an unparalleled loophole and seems contradictory to the EU Charter which states that all data 'concerning a person' deserve protection.	

<b>Amendment 905 (Dimitrios Droutsas)</b> <b>Article 6 – paragraph 1 a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>1a. Only if none of the legal grounds for the processing of personal data referred to in paragraph 1 apply, processing of personal data for specific purposes can be based on the legitimate interests of the controller. The data controller shall in that case inform the data subject about the data processing explicitly and separately. The controller shall publish the reasons for believing that its interests override the interests or fundamental rights and freedoms of the data subject. This paragraph shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>
Comment: This is a good amendment, see comment to Amendment 903.	

<b>Amendment 906 (Josef Weidenholzer, Birgit Sippel)</b> <b>Article 6 – paragraph 1 a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>1a. The predominant legitimate interests which are overriding the interests of data subjects as referred to in point (f) of paragraph 1 are generally:</i></b>  <b><i>(a) the protection of fundamental rights of the controller;</i></b>  <b><i>(b) the protection of fundamental rights of third parties, if the controller has a legal obligation to protect their</i></b>

	<p><i>rights;</i></p> <p><i>(c) establishment, exercise or defence of legal rights;</i></p> <p><i>(d) exercise of the freedom of expression within the limits of Article 80;</i></p> <p><i>(e) historical, statistical or scientific research within the limits of Article 83.</i></p>
<p>Comment: This is a good list of legitimate interests but these cannot be deemed overriding in all cases. It depends on the rights of data subjects that are at stake in a specific situation.</p>	

<p><b>Amendment 907 (Cornelia Ernst, Marie-Christine Vergiat)</b>  <b>Article 6 – paragraph 1 a (new)</b></p>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1a. The legitimate interests of the controller as referred to in paragraph 1 point (f) may override the interests or fundamental rights and freedoms of the data subject, only if:</i></p> <p><i>(a) processing of personal data takes place as part of the exercise of the right to freedom of expression, the media and the arts, within the limits of Union or national law;</i></p> <p><i>(b) processing of personal data is necessary for and proportionate to the enforcement of the legal claims of the data controller or of third parties on behalf of whom the data controller is acting in relation to a specific identified data subject, or for preventing or limiting damage by the data subject to the controller, given that these legal claims are not manifestly unreasonable;</i></p> <p><i>(c) processing of personal data takes place in the context of professional business-to-business relationships and the data were collected from the data subject for that purpose and the processing shall be limited to the business-to-business relationship in which the data were originally collected;</i></p> <p><i>(d) processing of personal data is necessary for registered non-profit associations, foundations and charities, recognised as acting in the public interest under Union or national law, for the sole purpose of collecting donations.</i></p>
<p>Comment: This is a reasonably good list of legitimate interests. However, the processing for exercising the right to freedom of expression should not fall under this scope. The categories are also quite narrow without justification for this fact.</p>	

**Amendment 908 (Jan Philipp Albrecht)**  
**Article 6 – paragraph 1 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1b. The legitimate interests of the controller as referred to in paragraph 1a override the interests or fundamental rights and freedoms of the data subject, as a rule and for example, if:</i></p> <p><i>(a) processing of personal data takes place as part of the exercise of the right to freedom of expression, the media and the arts, within the limits of Union or national law;</i></p> <p><i>(b) processing of personal data is necessary for the enforcement of the legal claims of the data controller or of third parties on behalf of whom the data controller is acting in relation to a specific identified data subject, or for preventing or limiting damage by the data subject to the controller;</i></p> <p><i>(c) the data subject has provided personal data to the data controller on the legal ground referred to in point (b) of paragraph 1, and the personal data are used for direct marketing for its own and similar products and services and are not transferred, and the data controller is clearly identified to the data subject;</i></p> <p><i>(d) processing of personal data takes place in the context of professional business-to-business relationships and the data were collected from the data subject for that purpose;</i></p> <p><i>(e) processing of personal data is necessary for registered non-profit associations, foundations and charities, recognised as acting in the public interest under Union or national law, for the sole purpose of collecting donations.</i></p>
<p>Comment: See comment to Amendment 907.</p>	

**Amendment 909 (Dimitrios Droutsas)**  
**Article 6 – paragraph 1 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1b. The following interests of the controller are presumed to be legitimate:</i></p> <p><i>(a) processing of personal data is necessary for the prevention or limitation of damages suffered by the controller, or, in exceptional cases, by a third party;</i></p> <p><i>(b) the data subject has provided the personal data to the data controller on the legal ground referred to in point (b) of paragraph 1, the personal data</i></p>

	<i>are used for direct marketing for its own similar products and services and are not transferred, and the data controller is clearly identified towards the data subject.</i>
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Comment: This is a good clarification of legitimate interest and not too narrow at the same time.

**Amendment 910 (Josef Weidenholzer, Birgit Sippel)**  
**Article 6 – paragraph 1 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b><i>1b. Predominant legitimate interests which are overriding the interests of data subjects as referred to in point (f) of paragraph 1 are generally not:</i></b></p> <p><b><i>(a) the assessment of creditworthiness;</i></b></p> <p><b><i>(b) direct marketing;</i></b></p> <p><b><i>(c) processing for the sole purpose of additional financial gain within a contractual relationship;</i></b></p> <p><b><i>(d) processing that cannot be reasonably expected by the data subject or is significantly disadvantageous.</i></b></p>

Comment: This is a good clarification of what does not constitute a legitimate interest.

**Amendment 911 (Cornelia Ernst, Marie-Christine Vergiat)**  
**Article 6 – paragraph 1 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b><i>1b. The interests or fundamental rights and freedoms of the data subject as referred to in paragraph 1 point (f) override the legitimate interest of the controller, as a rule, if:</i></b></p> <p><b><i>(a) the processing may cause a serious risk of damage to the data subject;</i></b></p> <p><b><i>(b) special categories of data as referred to in paragraph 1 of article 9, location data, or biometric data are processed;</i></b></p> <p><b><i>(c) personal data are processed in the context of profiling;</i></b></p> <p><b><i>(d) personal data is made accessible for a large number of persons or large amounts of personal data about the data subject are processed, aligned or combined with other data;</i></b></p> <p><b><i>(e) the processing of personal data may adversely affect the data subject, in particular because it can lead to defamation or discrimination; or</i></b></p> <p><b><i>(f) the data subject is a child.</i></b></p>



Comment: This is a good clarification of overriding interests of data subjects and not too narrow.

<b>Amendment 912 (Cornelia Ernst) Article 6 – paragraph 1 c (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1c. Where the controller or his representative intends to process personal data on the basis of point f of Article 6(1) , he shall notify the supervisory authority referred to in Chapter VI before carrying out any such processing operation.</i>
Comment: The intention is good but may prove infeasible and not provide a lot of protection in practice because DPA's are not equipped to deal with large amounts of notifications let alone respond to them.	

<b>Amendment 913 (Jan Philipp Albrecht) Article 6 – paragraph 1 c (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1c. The interests or fundamental rights and freedoms of the data subject as referred to in paragraph 1a override the legitimate interest of the controller, as a rule and for example, if:</i> <i>(a) the processing causes a serious risk of damage to the data subject;</i> <i>(b) special categories of data as referred to Article 9(1), location data, or biometric data are processed;</i> <i>(c) the data subject can reasonably expect, on the basis of the context of the processing, that his or her personal data will only be processed for a specific purpose or treated confidentially, unless the data subject concerned has been informed specifically and separately about the use of his or her personal data for purposes other than the performance of the service;</i> <i>(d) personal data are processed in the context of profiling;</i> <i>(e) personal data is made accessible for a large number of persons or large amounts of personal data about the data subject are processed or combined with other data;</i> <i>(f) the processing of personal data may adversely affect the data subject, in particular because it can lead to defamation or discrimination; or</i> <i>(g) the data subject is a child.</i>
Comment: This is a reasonably good list of overriding interests of data subjects. Amendment 914 is to be preferred because it is more flexible and less prescriptive and will thus be better suited to different data processing situations in practice.	

**Amendment 914 (Dimitrios Droutsas)  
Article 6 – paragraph 1 c (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1c. Any legitimate interests pursued by the controller, must be balanced against the interests or fundamental rights and freedoms of the data subject. This fundamental rights and interests are presumed to override the legitimate interest of the controller, if:</i></p> <p><i>(a) the processing causes a serious risk of damage to the data subject;</i></p> <p><i>(b) the processing leads to a serious risk of infringement of any of the fundamental rights of the data subjects involved, as laid down in the Charter of Fundamental Rights of the European Union;</i></p> <p><i>(c) the processing involves location data or biometric data;</i></p> <p><i>(d) the processing entails the processing of personal data that are the result of profiling of the data subject;</i></p> <p><i>(e) there is a significant risk of processing of personal data without legal ground, in particular if personal data is made accessible for a large number of persons or if large amounts of personal data about the data subject are processed or combined with other data; or</i></p> <p><i>(f) the data subject is a child.</i></p>

Comment: This amendment provides the best clarification of overriding interests of data subjects compared to Amendment 913 and Amendment 911.

**Amendment 915 (Dimitrios Droutsas)  
Article 6 – paragraph 1 d (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1d. Processing is necessary due to national practices for the social partners concerning collective agreements.</i></p>

Comment:

Amendment 916 (Dimitrios Droutsas) Article 6 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.</b>	<i>deleted</i>
Comment:	

Amendment 917 (Josef Weidenholzer) Article 6 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.</b>	<i>deleted</i>
Comment:	

Amendment 918 (Louis Michel) Article 6 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.</b>	<i>deleted</i>
Comment:	

Amendment 919 (Jens Rohde, Adina-Ioana Vălean) Article 6 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.	2. <b>Subsequent</b> processing of personal data which is necessary for the purposes of historical, statistical or scientific research shall be lawful subject to the conditions and safeguards referred to in Article 83.
Comment:	

Amendment 920 (Anna Hedh, Marita Ulvskog, Christel Schaldemose) Article 6 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Processing of personal data which is necessary for <b><i>the purposes of</i></b> historical, statistical or scientific <b><i>research</i></b> shall be lawful subject to the conditions and safeguards referred to in Article 83.	2. Processing of personal data which is necessary for historical, statistical or scientific <b><i>purposes</i></b> shall be lawful subject to the conditions and safeguards referred to in Article 83.
Comment: The intention is good but may prove infeasible and not provide a lot of protection in practice because DPA's are not equipped to deal with large amounts of notifications let alone respond to them.	

Amendment 921 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier) Article 6 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Processing of pseudonymised data to safeguard the legitimate interests pursued by a controller shall be lawful, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>
Comment: This combination of pseudonymous data and legitimate interest allows all kinds of data processing (including tracking and profiling of citizens online) without their consent – which is currently the basis for such forms of processing. This is a very bad amendment that creates a big loophole and inappropriately stretches the current 'legitimate interest' clause.	

Amendment 922 (Sabine Verheyen, Axel Voss, Anna Maria Corazza Bildt, Monika Hohlmeier) Article 6 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Processing of pseudonymised data to safeguard the legitimate interests pursued by a controller shall be lawful, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. This shall not apply to processing carried out by public authorities in the performance of their tasks.</i></b>
Comment: This combination of pseudonymous data and legitimate interest allows all kinds of data processing (including tracking and profiling of citizens online) without their consent – which is currently the basis for such forms of processing. This is a very bad amendment that creates a big loophole and inappropriately stretches the current 'legitimate interest' clause.	

Amendment 923 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 3 – subparagraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The basis <i>of</i> the processing referred to in <i>points (c) and (e)</i> of paragraph 1 must be provided for in:	3. The <i>legal</i> basis <i>for</i> the processing referred to in <i>point (e)</i> of paragraph 1 must be provided for in:
Comment:	

Amendment 924 (Josef Weidenholzer) Article 6 – paragraph 3 – subparagraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The basis of the processing referred to in points (c) and (e) of paragraph 1 must be provided for in:	3. The basis of the processing referred to in points (c) and (e) of paragraph 1 <i>and point (g) of Article 9(2)</i> , must be provided for in:
Comment:	

Amendment 925 (Birgit Sippel, Josef Weidenholzer, Evelyn Regner) Article 6 – paragraph 3 – subparagraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the law of the Member State to which the controller is subject.	(b) the law of the Member State, <i>including collective employment agreements</i> , to which the controller is subject.
Comment:	

Amendment 926 (Lidia Joanna Geringer de Oedenberg) Article 6 – paragraph 3 – subparagraph 1 – point b a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) In the case referred to in paragraph 1(f), the data controller should clearly and separately notify the data subject of such processing. Upon an express request from the data subject, the data controller should also justify the reasons why he decided that the legitimate interest pursued outweighs the overriding interest of protecting the data subject's fundamental rights and freedoms.</i>
Comment:	

<b>Amendment 927 (Axel Voss)</b> <b>Article 6 – paragraph 3 – subparagraph 1 – point b a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ba) international conventions to which the Union or a Member State is a party.</i></b>
Comment:	

<b>Amendment 928 (Wim van de Camp)</b> <b>Article 6 – paragraph 3 – subparagraph 1 – point b a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ba) international conventions to which the EU or a Member State is a party.</i></b>
Comment:	

<b>Amendment 929 (Dimitrios Droutsas)</b> <b>Article 6 – paragraph 3 – subparagraph 1 – point b a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ba) collective agreements in the employment context.</i></b>
Comment:	

<b>Amendment 930 (Sarah Ludford)</b> <b>Article 6 – paragraph 3 – subparagraph 1 – point b a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ba) internationally recognised regulations, rules, guidance, standards and/or industry codes of practice relevant to the business of the controller.</i></b>
Comment: 'relevance' is not sufficient as a legal basis. The processing must be necessary to comply with a binding law, not optional in order to adhere to a code of practice. Adhering to such codes should be based on legitimate interest of the controller and balance test must take place between the interests of the controller and the data subject.	

<b>Amendment 931 (Monika Holhmeier, Axel Voss)</b> <b>Article 6 – paragraph 3 – subparagraph 1 a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>These provisions may regulate details of the lawfulness of processing, particularly as regards data controllers, the purpose of processing and</i></b>

	<i>purpose limitation, the nature of the data and the data subjects, processing measures and procedures, recipients, and the duration of storage.</i>
Comment: The Regulation already contains rules regarding these issues in other articles.	

Amendment 932 (Wim van de Camp) Article 6 – paragraph 3 – subparagraph 2	
<b>Commission Proposal</b>	<b>Amendment</b>
The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.	<b>The international conventions, EU law or</b> the law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.
Comment: The processing must in any case be necessary to comply with a binding law.	

Amendment 933 (Jens Rohde, Adina-Ioana Vălean) Article 6 – paragraph 3 – subparagraph 2	
<b>Commission Proposal</b>	<b>Amendment</b>
The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.	The law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others. <b>The law of the Member State must also</b> respect the essence of the right to the protection of personal data <b>this regulation and international treaties that the Member State has decided to follow. Finally the Member State is obliged to evaluate and decide if national legislation is</b> and be proportionate to the legitimate aim pursued <b>or if a legitimate aim could be achieved using less privacy invasive solutions.</b>
Comment:	

Amendment 934 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 6 – paragraph 3 – subparagraph 2	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>The</b> law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.	<b>Union law and the</b> law of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.
Comment:	

Amendment 935 (Monika Hohlmeier) Article 6 – paragraph 3 – subparagraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
The <i>law</i> of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued.	The <i>laws of the Union and</i> of the Member State must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, respect the essence of <i>fundamental rights and freedoms, in particular</i> the right to the protection of personal data and be proportionate to the legitimate aim pursued.
Comment:	

Amendment 936 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 3 – subparagraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>The law of the Member State must meet an objective of public interest or</i> must be necessary to protect the rights and freedoms of others, respect the essence of the right to the protection of personal data and be <i>proportionate</i> to the legitimate aim pursued.	<i>In these provisions the lawfulness of the processing can be further specified, particularly in relation to the controller, to the purpose of the processing and the limitation of such purpose, to the nature of the data and to the data subjects, to the processing operations and the processing procedures, and to the recipients of personal data as well as to the duration of storage. The provisions of Union law and of the law of the Member State</i> must be necessary to protect the rights and freedoms of others, <i>must</i> respect the essence of <i>fundamental rights and fundamental freedoms, in particular of</i> the right to the protection of personal data and be <i>appropriate</i> to the legitimate aim pursued <i>by the processing</i> .
Comment: The rules regarding lawfulness, storage and purpose should be laid down in the Regulation itself. The law of the Member State merely provides the public interest basis that serves as the basis for the processing. Overall, we do not support the approach taken by MEP Alvaro as it leads to an overhaul of the current data protection law system and creates loopholes and risks regarding the protection of citizens' privacy.	

Amendment 937 (Josef Weidenholzer) Article 6 – paragraph 3 – subparagraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>The law of the Member State</i> must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, <i>respect the essence of the right</i> to the <i>protection of personal data and be proportionate to the legitimate aim pursued</i> .	<i>Such laws shall provide for suitable measures to safeguard the data subject's legitimate interests,</i> must meet an objective of public interest or must be necessary to protect the rights and freedoms of others, <i>be proportionate</i> to the <i>legitimate aim pursued and necessary in a democratic society</i> .



Comment: This is a good amendment providing clarifications.

**Amendment 938 (Alexander Alvaro, Nadja Hirsch)**

**Article 6 – paragraph 3 a (new)**

***Commission Proposal***

***Amendment***

***3a. In case of processing based on point (f) of paragraph 1, the controller shall inform the data subject about this explicitly as well as the data subject's right to object pursuant to Article 19(2).***

Comment: The specific information regarding the legitimate interests is a good addition.

**Amendment 939 (Louis Michel)**

**Article 6 – paragraph 4**

***Commission Proposal***

***Amendment***

***4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.***

***deleted***

Comment: We support deletion of the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose.

**Amendment 940 (Dimitrios Droutsas)**

**Article 6 – paragraph 4**

***Commission Proposal***

***Amendment***

***4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.***

***deleted***

Comment: We support deletion of the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose.

**Amendment 941 (Josef Weidenholzer)**

**Article 6 – paragraph 4**

***Commission Proposal***

***Amendment***

***4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have***

***deleted***

<i>a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.</i>	
Comment: We support deletion of the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose.	

<b>Amendment 942 (Cornelia Ernst, Marie-Christine Vergiat)</b> Article 6 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.</i>	<i>deleted</i>
Comment: We support deletion of the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose.	

<b>Amendment 943 (Wim van de Camp)</b> Article 6 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.</i>	<i>4. Personal data have may not be processed further if the intended purpose for which the personal data will be processed is incompatible with the one for which the personal data have been collected.</i>  <i>The data controller must assess the compatibility of the purposes in taking into account:</i>  <i>(a) the affiliation between the intended and original processing purposes;</i>  <i>(b) the nature of the data concerned;</i>  <i>(c) the consequences of the intended processing for the data subjects or third parties;</i>  <i>(d) the ways and means used for the original collection of the data;</i>  <i>(e) any adequate safeguards the data controller has provided.</i>
Comment: We support a change of the 'compatible use' paragraph narrowing it down to 'compatible use' (but we prefer Amendment 942).	

Amendment 944 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to <b>(fa)</b> of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.
Comment: We do not support the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose.	

Amendment 945 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Lara Comi, Renate Sommer) Article 6 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in <b>points (a) to (e) of</b> paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.
Comment: We do not support this 'incompatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose. The extension suggested by this amendment is unacceptable as it creates a large loophole and loss of control by citizens. This amendment is not compatible with MEP Van de Camps Amendment 943.	

Amendment 946 (Carmen Romero López) Article 6 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Where the purpose of further processing is <b>not compatible with</b> the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	4. Where the purpose of further processing is <b>different from</b> the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.
Comment: We do not support the 'compatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose. This amendment does not cure these issues.	

**Amendment 947 (Ewald Stadler)****Article 6 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (f) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.
Comment: We do not support this 'incompatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose. The extension suggested by this amendment is unacceptable as it creates a large loophole and loss of control by citizens.	

**Amendment 948 (Adina-Ioana Vălean, Jens Rohde)****Article 6 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.	4. Where the purpose of further processing is not compatible with the one for which the personal data have been collected, the processing must have a legal basis at least in one of the grounds referred to in points (a) to (f) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.
Comment: We do not support this 'incompatible use' paragraph as it is directly contrary to the principle that data can only be processed for purposes compatible with the original purpose. The extension suggested by this amendment is unacceptable as it creates a large loophole and loss of control by citizens.	

**Amendment 949 (Jan Mulder)****Article 6 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
4. <i>Where the purpose of further processing is not compatible</i> with the one for which the personal data have been collected, <i>the processing must have a legal basis at least in one of the grounds referred to in points (a) to (e) of paragraph 1. This shall in particular apply to any change of terms and general conditions of a contract.</i>	4. <i>Personal data may not be processed further if the intended purpose for which the personal data will be processed is incompatible</i> with the one for which the personal data have been collected. <i>The data controller must assess the compatibility of the purposes in taking into account:</i> <i>(a) the affiliation between the intended and original processing purposes;</i> <i>(b) the nature of the data concerned;</i> <i>(c) the consequences of the intended processing for the data subjects or third parties;</i> <i>(d) the ways and means used for the original collection of the data;</i> <i>(e) any adequate safeguards the data controller</i>

	<i>has provided.</i>
Comment: We support this limitation of the 'incompatible use' paragraph.	

Amendment 950 (Jan Mulder) Article 6 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4a. Further processing of personal data for historical, statistical and scientific purposes shall not be considered as incompatible when the data controller has provided all necessary precautions to ensure that the personal data can only be further processed for these specific purposes.</i>
Comment: We suggest including further exemptions regarding the processing of personal data for these purposes in article 83. This article provides specific rules for processing data collected for other purposes and subs. used for research purposes.	

Amendment 951 (Wim van de Camp) Article 6 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4a. Further processing of personal data for historical, statistical and scientific purposes shall not be considered as incompatible when the data controller has provided all necessary precautions to ensure that the personal data can only be further processed for these specific purposes.</i>
Comment: We suggest including further exemptions regarding the processing of personal data for these purposes in article 83. This article provides specific rules for processing data collected for other purposes and subs. used for research purposes.	

Amendment 952 (Wim van de Camp) Article 6 – paragraph 4 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4b. Further processing of personal data is prohibited if the processing is not compatible with any legal, professional or other binding obligation of secrecy.</i>
Comment: This goes without saying; data protection law can never supersede such obligations.	

Amendment 953 (Jan Mulder) Article 6 – paragraph 4 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4b. Further processing of personal data is prohibited if the processing is not compatible with any legal, professional or other binding obligation of secrecy.</i>
Comment: This goes without saying; data protection law can never supersede such obligations.	

Amendment 954 (Wim van de Camp) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 955 (Cornelia Ernst) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 956 (Sari Essayah) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 957 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 958 (Alexander Alvaro, Nadja Hirsch) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 959 (Adina-Ioana Vălean, Jens Rohde) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 960 (Timothy Kirkhope) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the</i>	<i>deleted</i>

<i>processing of personal data related to a child.</i>	
Comment:	

Amendment 961 (Dimitrios Droutsas) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 962 (Josef Weidenholzer) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 963 (Louis Michel) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	



Amendment 964 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Lara Comi, Renate Sommer) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 965 (Jan Mulder) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 966 (Sabine Verheyen, Axel Voss, Monika Hohlmeier) Article 6 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the conditions referred to in point (f) of paragraph 1 for various sectors and data processing situations, including as regards the processing of personal data related to a child.</i>	<i>deleted</i>
Comment:	

Amendment 967 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 7 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall bear the burden of proof for the data <i>subject's</i> consent to the processing of their personal data for specified purposes.	1. The controller shall bear the burden of proof for the data <i>subject having been duly informed in advance or in time to give their</i> consent to the processing of their personal data for specified purposes.

Comment: This amendment restricts the burden of proof unnecessarily to whether the data subject had been informed in time before consent has been given, whereas the burden of proof should also extend to the question of whether consent has been given.

**Amendment 968 (Alexander Alvaro, Nadja Hirsch)**

**Article 7 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall bear the burden of proof for the data subject's consent to the processing of their personal data <i>for specified purposes</i> .	1. <i>Where data is processed pursuant to Article 6 paragraph 1(a)</i> the controller shall bear the burden of proof for the data subject's consent to the processing of their personal data.

Comment: The main problem with this amendment is that the fact that consent should be given for 'specified purposes' is deleted from this provision, meaning that the burden of proof would only extend to consent in general, not to the specific purposes.

**Amendment 969 (Louis Michel)**

**Article 7 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. <i>If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.</i>	<i>deleted</i>

Comment: This amendment arguably does not do too much harm because it could be argued that the requirement of explicit consent already means that the consent should be distinguishable from other written declarations. In practice, it, however, weakens the consent criterion and is therefore undesirable.

**Amendment 970 (Axel Voss)**

**Article 7 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.	2. If the data subject's consent is to be given in the context of a written <i>or an electronic</i> declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.

Comment: It is clear that written declaration in this context also means 'electronic' declaration so this addition is unnecessary.

**Amendment 971 (Timothy Kirkhope)**

**Article 7 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. If the data subject's consent is to be given in the context of a written declaration which <i>also concerns another</i> matter, the requirement to give consent must be presented distinguishable	2. If the data subject's consent is to be given in the context of a written declaration which <i>concerns an entirely new, separate or unrelated</i> matter, the requirement to give consent must be presented

in its appearance from this other matter.	distinguishable in its appearance from this other matter.
<p>Comment: This amendment would undermine the original provision, which is intended to ensure that consent related to data protection is separated from consent with regard to other parts of an agreement. This amendment would make this requirement moot, because it would only extend to contractual issues which are not related to the initial contract.</p>	

**Amendment 972 (Josef Weidenholzer, Birgit Sippel)**  
**Article 7 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. If the data subject's consent is <b><i>to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.</i></b></p>	<p>2. If the data subject's consent is <b><i>given through consent to a written declaration by the controller such declarations must:</i></b></p> <p><b><i>(a) use as plain, short and transparent language as reasonably possible and be well-structured;</i></b></p> <p><b><i>(b) not contain clauses that cannot be reasonably expected or are significantly disadvantageous; and</i></b></p> <p><b><i>(c) be interpreted in favour of the data subject if unclear or contradictory.</i></b></p> <p><b><i>Clauses which are partly in violation of this regulation are fully void.</i></b></p>
<p>Comment: This amendment is a useful clarification of how consent should be dealt with if the text on which the consent is based, is supplied by the controller. The initial requirement that consent should be distinguishable in its appearance from other matter is, however, lost in this amendment.</p>	

**Amendment 973 (Lidia Joanna Geringer de Oedenberg)**  
**Article 7 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter.</p>	<p>2. If the data subject's consent is to be given in the context of a written declaration which also concerns another matter, the requirement to give consent must be presented distinguishable in its appearance from this other matter. <b><i>The permission of the data subject may be sought electronically, particularly in the context of information society services.</i></b></p>
<p>Comment: This amendment is a clarification of the fact that permission may be sought via electronic means. This is, however, implicit in the regulation already, so therefore unnecessary.</p>	

Amendment 973 (Jan Philipp Albrecht) Article 7 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. If data is collected for processing after consent has been given solely by automated means in accordance with paragraph 2a and the pseudonyms are later unlawfully associated with other personal identifiers that do permit the direct identification of a data subject pursuant to Article 4(1), then this constitutes a personal data breach likely to adversely affect the protection of the privacy of the data subject. The breach notifications must be communicated in accordance with the procedures in Articles 31 and 32.</i>
Comment: This amendment is a useful clarification of the fact that if pseudonymous is linked to a person, this means that it is not pseudonymous any more, and that this should be considered a data breach.	

Amendment 975 (Birgit Sippel, Josef Weidenholzer) Article 7 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. The consent shall be reaffirmed after two years, failing which it shall expire.</i>
Comment:	

Amendment 976 (Alexander Alvaro, Nadja Hirsch) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	<i>3. Without prejudice to the data subject's existing contractual obligations, the data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b>It is lawful that the withdrawal of consent might result in the termination of the relationship with the controller.</b></i>
Comment: This is a confusing amendment; if the service involving data processing is based on consent and the consent is withdrawn, the service can no longer be performed. However, where consent is merely accessory to the performance of the service (for instance, when data are processed based on a contract and a data subject also provides consent for the use of its personal data for marketing purposes), withdrawal of consent must not lead to termination of the contractual obligations.	

Amendment 977 (Adina-Ioana Vălean, Jens Rohde) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	3. <b><i>Without prejudice to the data subject's existing contractual obligations</i></b> , the data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b><i>It is lawful that the withdrawal of consent might result in the termination of the relationship with the controller.</i></b>
Comment: This is a confusing amendment; if the service involving data processing is based on consent and the consent is withdrawn, the service can no longer be performed. However, where consent is merely accessory to the performance of the service (for instance, when data are processed based on a contract and a data subject also provides consent for the use of its personal data for marketing purposes), withdrawal of consent must not lead to termination of the contractual obligations.	

Amendment 978 (Louis Michel) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal <b><i>nor shall it affect the lawfulness of processing of data based on other grounds referred to in Article 6(1).</i></b>
Comment: This amendment is not necessary, because it clarifies standing practice, but it is also not harmful to the privacy of data subjects.	

Amendment 979 (Carmen Romero López) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b><i>The option of withdrawing consent shall be made as easily accessible and shall involve the same level of practical difficulty attached to the granting of consent.</i></b>
Comment: This amendment is a useful clarification of the requirements regarding how consent may be withdrawn.	

Amendment 980 (Ewald Stadler) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <b><i>In accordance with the principle of good faith, withdrawal of consent shall not be permitted when the consent is required for the completion of a contract.</i></b>
Comment: This amendment undermines the idea that consent may be withdrawn at any time, and is therefore highly undesirable.	

Amendment 981 (Sarah Ludford) Article 7 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.	3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal, <b><i>or legitimate processing post consent such as record retention or health, historical, statistical or scientific research.</i></b>
Comment: This amendment is unnecessary while broadening the kind of legitimate processing under grounds other than consent. If consent is withdrawn, processing may still be allowed under other grounds. However, one of the examples given, namely 'record retention' is not considered a ground for processing.	

Amendment 982 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 7 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>3a. In the event that the data subject withdraws consent, the controller may refuse to provide further services if the processing of the data is vital for the provision of the service or ensuring the appropriate level of services.</i></b>
Comment: This amendment clarifies that some services can simply not be provided any more if the data with regard to which consent is withdrawn are essential for providing this service.	

Amendment 983 (Nils Torvalds) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.</i></b>	<b><i>deleted</i></b>

Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.

**Amendment 984 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 7 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
<b>4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.</b>	<i>deleted</i>
Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.	

**Amendment 985 (Alexander Alvaro, Nadja Hirsch)  
Article 7 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
<b>4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.</b>	<i>deleted</i>
Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.	

**Amendment 986 (Adina-Ioana Vălean, Jens Rohde)  
Article 7 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
<b>4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.</b>	<i>deleted</i>
Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.	

**Amendment 987 (Timothy Kirkhope)  
Article 7 – paragraph 4**

<i>Commission Proposal</i>	<i>Amendment</i>
<b>4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.</b>	<i>deleted</i>
Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.	

Amendment 988 (Axel Voss, Wim van de Camp, Hubert Pirker, Véronique Mathieu Houillon, Salvatore Iacolino, Lara Comi) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	deleted
Comment: This amendment significantly lessens the rights of data subjects because it deletes an essential safeguard against abuse of power by the controller.	

Amendment 989 (Sari Essayah) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller. <b><i>This does not apply to public authorities or employer's opportunities to process personal data on the basis of the consent of the citizen or the employee.</i></b>
Comment: This amendment would restrict the safeguard for consent given under imbalanced positions, exactly in cases where such imbalance is potentially significant (i.e. employer/employee, government/citizen relationship).	

Amendment 990 (Jan Mulder) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not <b><i>as a rule</i></b> provide a legal basis for the processing <b><i>of personal data in case</i></b> where there is a significant imbalance <b><i>in terms of dependence</i></b> between the position of the data subject and the controller.
Comment: This amendment would restrict the kinds of imbalance to imbalance in terms of dependence, whereas other types of imbalance, for example in terms of information are also problematic. Moreover, the addition that 'as a rule' consent cannot be considered a legal basis in such situations suggests that this provision is less binding than in the initial provision.	

Amendment 991 (Louis Michel, Philippe De Backer) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller. <b><i>There shall be no significant imbalance when the data are processed in the context of employment or contracts protecting against risk.</i></b>



Comment: It is not a good idea to restrict the situations in which the imbalance-safeguard test is to be applied, since also in the case of employer/employee or insurance relationships, there can be such imbalance.

Amendment 992 (Jan Philipp Albrecht) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. <b>As a rule</b> , consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.
Comment: It is unclear how this amendment achieves its intended purpose, but it doesn't do any harm either.	

Amendment 993 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, <b>where there is</b> a significant imbalance between the position of the data subject <b>and the controller</b> .	4. Consent shall not provide a legal basis for the processing <b>if, due to</b> a significant imbalance between the position of the <b>controller and the</b> data subject, <b>it has not been given freely, in accordance with Article 4(8)</b> .
Comment: This amendment provides a useful clarification of the situations for which the 'imbalance-safeguard' is intended.	

Amendment 994 (Sarah Ludford, Charles Tannock) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance <b>or coercive relationship</b> between the position of the data subject and the controller. <b>The patient-healthcare provider relationship is not considered a significantly imbalanced or coercive relationship</b> .
Comment: This amendment makes an exception for a specific kind of relationship, whereas this specific relationship cannot upfront be excluded from the imbalance-safeguard either.	

Amendment 995 (Sonia Alfano, Gianni Vattimo) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller, <b>or where the processing of data for a purpose is disproportionate in relation to the obtained consent</b> .

Comment: This amendment ensures that even if consent is given for a broad range of processing, it cannot always be used as an excuse to do so – it is therefore a safeguard against abuse of the concept of consent.

Amendment 996 (Ewald Stadler) Article 7 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller. <b><i>In this connection the interests of the data subjects shall be taken into account.</i></b>
Comment: This amendment clarifies what interest should be taken into account.	

Amendment 997 (Cornelia Ernst) Article 7 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>4a. Consent loses its legal effect as a basis for processing as soon as the processing of personal data is no longer necessary for carrying out the purpose for which they were originally collected. Where the conclusion of the intended purpose can not be clearly determined, the controller shall at least once a year provide the data subject with the information pursuant to Article 14 and request a confirmation of the original consent from the data subject. If the data subject does not reply positively, the original consent should be considered to have lost its legal effect at the end of the second calendar year after the first processing.</i></b>
Comment: This amendment clearly delineates the scope of consent and thereby protects the data subject.	

Amendment 998 (Claude Moraes, Glenis Willmott) Article 7 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>4a. For the purpose of scientific research activities (including public health, medical and social science) consent should comply with the relevant provisions in Directive 2001/20/EC.</i></b>
Comment: This amendment, although well intended, appears to make Directive 2001/20/EC applicable to various 'scientific research activities' which would not fall with the scope of the Directive.	

<b>Amendment 999 (Alexander Alvaro, Nadja Hirsch)</b> <b>Article 7 – paragraph 4 a (new)</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>4a. The required form of consent shall reflect the principles laid down in Articles 5a, 5b and 5c as well as the result of the data protection risk analysis referred to in Article 33.</i>
Comment: This amendment is dependent on various amendments that introduce a risk-based and context based approach to data protection. We do not accept this approach.	

<b>Amendment 1000 (Manfred Weber)</b> <b>Article 7 – paragraph 4 a (new)</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>4a. Consent shall be purpose-limited and shall lose its validity when the purpose ceases to exist; consent shall also be invalid when the data subject gives his or her consent in a general and abstract way to unspecified and unpredictable forms of data processing.</i>
Comment:	

<b>Amendment 1001 (Dimitriou Droutsas)</b> <b>Article 7 – paragraph 4 a (new)</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>4a. The Commission shall be empowered to adopt, after requesting an opinion from the European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of further specifying the requirements and conditions for technical standards referred to in paragraph 2a, and for declaring that a technical standard is in line with this Regulation and has general validity within the Union.</i>
Comment:	

<b>Amendment 1002 (Monika Hohlmeier)</b> <b>Article 7 a (new)</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>Article 7a</i> <i>The Member States' rules governing the validity of declarations of intent and contracts shall be unaffected.</i>
Comment: This amendment would undermine the concept laid down in Article 7 that consent may be withdrawn in certain circumstances, notwithstanding the rules applying to the validity of declarations of	

intent or contracts.

**Amendment 1003 (Josef Weidenholzer, Birgit Sippel)  
Article 7 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 7a</i></p> <p><i>Service providers shall not make their offer dependent to the consent for data processing that is not necessary for the service provided.</i></p>
Comment: This amendment protects the interests of data subjects, because it ensures that consent for broad data processing may not be made dependent on the offering of a service.	

**Amendment 1004 (Françoise Castex, Sylvie Guillaume)  
Article 7 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 7a</i></p> <p><i>Consent should only be obtainable for processing which is lawful and, therefore, not disproportionate to its purpose. Consent shall not constitute a valid legal basis when it is intended to enable the controller to scan the list of contacts of the person concerned for the purpose of collecting the personal data of third persons.</i></p>
Comment: This amendment protects third parties who are part of a list of contacts which are scanned with the consent of another person, thus ensuring that this person cannot give consent for processing of data of third parties in this context.	

**Amendment 1106 Proposal for a regulation  
Article 11 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall <i>have transparent and easily accessible policies</i> with regard to the processing of personal data and for the exercise of data subjects' rights.	1. The controller shall <i>observe transparency and accessibility criteria</i> with regard to the processing of personal data and for the exercise of data subjects' rights. <i>To that end it may disseminate those criteria by framing policies to be made known to all data subjects.</i>
Comment: This amendment would weaken the obligation to create such policies and therefore decrease transparency from data subjects' point of view. The final sentence is also meaningless – permitting something that is already permitted makes no logical sense.	

Amendment 1107 Proposal for a regulation Article 11 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall have transparent and easily accessible policies with regard to the processing of personal data and for the exercise of data subjects' rights.	1. The controller shall have transparent and easily accessible policies <b>as laid out in a code of practice</b> with regard to the processing of personal data and for the exercise of data subjects' rights.
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way. It does, however, seem unduly restrictive for businesses that their policies may only be laid out in a code of practice.	

Amendment 1108 Proposal for a regulation Article 11 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall have transparent and easily accessible policies with regard to the processing of personal data and for the exercise of data subjects' rights.	1. The controller shall have <b>plain, short, transparent, well-structured</b> and easily accessible policies with regard to the processing of personal data and for the exercise of data subjects' rights.
Comment: This amendment increases the standard with regard to data protection policies, thus increasing their accessibility and transparency for data subjects.	

Amendment 1109 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, <b>adapted to the data subject</b> , in particular for any information addressed specifically to a child.	2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, in particular for any information addressed specifically to a child.
Comment: Justification for this amendment (which is identical to AM28 of the draft JURI opinion) considers that children are the only group in need of adapted information, but there are also other groups which could benefit from such adapted information, for example people with physical limitations or lack of technical awareness.	

Amendment 1110 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.	2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible <b>and permanent</b> form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.
Comment: The requirement of providing any information and any communication relating to the processing of personal data to the data subject in permanent form will increase its accessibility and reliability from data subjects' point of view. Otherwise the data controller could change the content of	

this information without making sure that data subject is aware of such a change or claim that the information provided to the data subject was different than it was in reality.

Amendment 1111 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, <b>in particular</b> for any information addressed specifically to a child.	2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language <b>wherever possible. This last point shall be taken particularly into account</b> for any information addressed specifically to a child.
Comment: This amendment would open a loophole for controllers to use legal terminology that might not be understandable for data subject by claiming that using clearer and plainer language would not be possible without sacrificing accuracy. It is always possible to use clear and plain language, even if as a complement to the full explanation.	

Amendment 1112 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, <b>adapted to the data subject</b> , in particular for any information addressed specifically to a child.	2. The controller shall provide any information and any communication relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, in particular for any information addressed specifically to a child.
Comment: The justification for this amendment (which is identical to AM28 of the draft JURI opinion) considers that children are the only group in need of adapted information, but there are also other groups which could benefit from such adapted information, for example people with physical limitations or lack of technical awareness.	

Amendment 1113 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall <b>provide any</b> information <b>and any communication</b> relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.	2. The controller shall <b>make available</b> information relating to the processing of personal data to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.
Comment: This amendment weakens the obligations of data controllers towards data subjects in a significant way. The requirement of “making available” information relating to the processing of personal data is far more lenient and opens the possibility of abuse, e.g. claiming that respective information was made available on the website while in practice it was very difficult to find it.	

Amendment 1114 Proposal for a regulation Article 11 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall provide any information and any communication relating to the processing of personal data <b><i>to the data subject in an intelligible form, using clear and plain language, adapted to the data subject, in particular for any information addressed specifically to a child.</i></b>	2. The controller shall provide any information and any communication relating to the processing of personal data, <b><i>which according to this Regulation he is obliged to provide access to,</i></b> to the data subject <b><i>in an intelligible form, which can be understood by an average informed, attentive and understanding average consumer.</i></b>
Comment: This amendment removes the key requirement of providing information to the data subject in “clear and plain language”, replacing it with much more flexible standard of „informed, attentive and understanding average consumer”, thus lowering the standard of protection and creating more interpretative space. The new text is also has a far less obvious meaning.	

Amendment 1115 -Proposal for a regulation Article 11 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Information for data subjects shall be provided in a format offering data subjects the information needed to understand their position and make decisions in an appropriate way. Therefore the controller shall provide and communicate its data protection policies through an easily understandable mode of description based on icons and other graphic features for the different types of data processing, their conditions and consequences. Full information shall be available on request in accordance with Article 14.</i></b>
Comment: Translating complex policies into simple icons or other graphic features (on the condition full policies are still available) may be very beneficial from data subjects’ perspective and goes in line with the principle of making such information more available (including through an easily understandable mode of description).	

Amendment 1116 Proposal for a regulation Article 11 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. The controller shall provide and communicate its data protection policies through an easily understandable icon-based mode of description for the different types of data processing, their conditions and consequences. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying such icon-based mode of description. Such an icon based mode shall include information relating to the purpose of processing, whether the data will be disclosed to third parties and the purposes of such a disclosure, about tracking systems, information and availability of remedies, on available and effective contact points of the data controller, information on data security policies and</i></b>

	<i>measures implemented by the controller, and information on the duration of storage.</i>
Comment: Translating complex policies into simple icons or other graphic features (on the condition full policies are still available) may be very beneficial from data subjects' perspective and goes in line with the principle of making such information more available (including through an easily understandable mode of description).	

**Amendment 1117 Proposal for a regulation  
Article 11 – paragraph 2 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2b. The Commission shall be empowered to adopt, after requesting an opinion of The European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of further specifying the mode of description based on icons and other graphic features which is referred to in paragraph 3 concerning the nature of the processing, duration of storage, transfer or erasure of data by establishing icons or other instruments in order to provide information in a standardised way.</i>
Comment: Translating complex policies into simple icons or other graphic features (on the condition full policies are still available) may be very beneficial from data subjects' perspective and goes in line with the principle of making such information more available (including through an easily understandable mode of description).	

**Amendment 1118 Proposal for a regulation  
Article 11 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>Article 11a Article 12 of Directive 2002/58/EC and Articles 20 and 21(3)(e) of Directive 2002/22/EC are an application of the data subjects' right to transparent information and communication which requires that the controller informs data subjects of their rights with respect to the use of their personal information and draws attention to the presence of systems which have been developed in accordance with the principles of privacy by design.</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

**Amendment 1119 Proposal for a regulation  
Article 12 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles</i>	<i>deleted</i>



<p><b>15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller shall also provide means for requests to be made electronically.</b></p>	
<p>Comment: This amendment removes important safeguards, which were meant to make the essential rights of the data subject (the right to information, right to object, right to erasure etc.) actionable and meaningful in practice. The right “on paper”, deprived of procedures enabling its practical use, becomes a legal fiction.</p>	

<p><b>Amendment 1120 Proposal for a regulation Article 12 – paragraph 1</b></p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p><b>1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller shall also provide means for requests to be made electronically.</b></p>	<p><b>deleted</b></p>
<p>Comment: This amendment removes important safeguards, which were meant to make the essential rights of the data subject (the right to information, right to object, right to erasure etc.) actionable and meaningful in practice. The right “on paper”, deprived of procedures enabling its practical use, becomes a legal fiction.</p>	

<p><b>Amendment 1121 Proposal for a regulation Article 12 – paragraph 1</b></p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p>1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller <b>shall</b> also provide means for requests to be made electronically.</p>	<p>1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller <b>may</b> also provide means for requests to be made electronically.</p>
<p>Comment: This amendment weakens the safeguards by removing the obligation to provide means for requests to be made electronically. It is also legally nonsensical to include a provision in a regulation saying that information may be provided electronically – it is quite obvious that the opposite cannot be the case.</p>	

Amendment 1122 Proposal for a regulation Article 12 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller shall also provide means for requests to be made electronically.	1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, <b>and unless disproportionate efforts or costs arise from this</b> , the controller shall also provide means for requests to be made electronically.
Comment: This amendment weakens the safeguards by making the obligation to provide means for requests to be made electronically conditional and subject to data controller's own assessment of "disproportionate efforts or costs". The lack of clarity will reduce legal predictability for citizens and businesses.	

Amendment 1123 Proposal for a regulation Article 12 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall <b>establish procedures for providing</b> the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where <b>personal data are processed by automated means, the controller shall also provide means for requests to be made electronically</b> .	1. The controller shall <b>provide</b> the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where <b>this is deemed appropriate, the above information as a whole may be presented in the form of policies and manuals of procedures to facilitate understanding and the use of such information</b> .
Comment: The second part of this amendment seems to neglect the point that this paragraph deals with the procedures implementing all data subject rights, not just the right to information. The right to access, for example, could hardly be exercised with the amendment's wording. Also, the obligation to allow for requests to be made electronically should be maintained.	

Amendment 1124 Proposal for a regulation Article 12 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by	1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. The controller shall provide in particular mechanisms for facilitating the request for the actions referred to in Article 13 and Articles 15 to 19. Where personal data are processed by automated means, the controller <b>may</b> also provide means for requests to be

automated means, the controller <i>shall</i> also provide means for requests to be made electronically.	made electronically.
Comment: This amendment weakens the safeguards by removing the obligation to provide means for requests to be made electronically. The amendment is also legal nonsense – there is no need to grant a right “the controller may” that already exists.	

**Amendment 1125 Proposal for a regulation  
Article 12 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. <b><i>The controller shall provide in particular mechanisms for facilitating the request for the actions</i></b> referred to in Article 13 and Articles 15 to 19. <b><i>Where personal data are processed by automated means, the controller shall also provide means for requests to be made electronically.</i></b>	1. The controller shall establish procedures for providing the information referred to in Article 14 and for the exercise of the rights of data subjects referred to in Article 13 and Articles 15 to 19. <b><i>Where the data subject wishes to exercise the rights</i></b> referred to in Article 13 and Articles 15 - 19 <b><i>he shall make a request to this effect to the controller by a personally signed or otherwise comparable verified document.</i></b>
Comment: This amendment creates additional, significant burden on the part of the data subject when the data subject wishes to exercise his or her statutory rights. Taking into account the typical situation, when data controller is in possession of the data base containing various pieces of personal information, identification of the data subject for the purposes of exercising his or her rights should be possible on that basis, i.e. without the need to present a signed document. A “personally signed” document is not a “verified document” in any case, unless the data processing was authorised on the basis of a signature.	

**Amendment 1126 Proposal for a regulation  
Article 12 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information <b><i>shall</i></b> be provided in electronic form, unless otherwise requested by the data subject.	2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information <b><i>may</i></b> be provided in electronic form, unless otherwise requested by the data subject.
Comment: This amendment weakens the safeguards by removing the obligation to provide means for requests to be made electronically. It is a legal nonsense to grant a right in a Regulation (to provide information electronically), when this right is not and could not be in question.	

Amendment 1127 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. <b><i>Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</i></b>	2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing.
Comment: This amendment weakens the safeguards by removing the obligation to provide means for requests to be made electronically. It is absurd to imagine a situation where data would not be easily available to the data controller – removing the possibility to demand it being delivered electronically creates a possibility for data to be provided in a more cumbersome format.	

Amendment 1128 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller, <b><i>or if the nature of the data requested requires them to be reviewed before they are made available so as to protect data relating to any third party contained within the record.</i></b> The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.
Comment: This amendment does not affect the safeguards of the data subject’s rights in a significant way.	

Amendment 1129 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged <b>for a further month</b> , if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form <b>if possible</b> , unless otherwise requested by the data subject.
Comment: This amendment weakens the safeguards by making the obligation to provide means for requests to be made electronically conditional and subject to data controller’s own assessment. In addition, it opens the possibility of delaying response to data subject’s request for unlimited period of time. It reduces clarity and predictability for businesses and citizens.	

Amendment 1130 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information <b>shall</b> be provided in electronic form, unless otherwise requested by the data subject.	2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be given in writing. Where the data subject makes the request in electronic form, the information <b>may</b> be provided in electronic form, unless otherwise requested by the data subject <b>or unless the controller has reason to believe that providing the information in electronic form would create a significant risk of fraud.</b>
Comment: This amendment weakens the safeguards by making the obligation to provide means for requests to be made electronically conditional and subject to data controller’s own assessment. Cases in which there is a risk of fraud should then be subject to stricter verification, but should not lead to not providing information.	

Amendment 1131 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. The controller shall inform the data subject without delay <b>and, at the latest within one month of receipt of the request</b>, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. <b>This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller.</b> The information shall be given in writing. <b>Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</b></p>	<p>2. The controller shall inform the data subject without <b>excessive</b> delay, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. The information shall be given in writing, electronic <b>means included</b>.</p>
<p>Comment: This amendment removes some of the safeguards (the obligation to respond within a set time limit, the obligation to respect the choice of form of communication made by the data subject). Thus it creates a risk of abuse and interpretation, which will be detrimental for the data subject. The removal of clear deadlines and their replacement with unclear terminology reduces clarity and predictability for citizens and for businesses.</p>	

Amendment 1132 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be <b>given</b> in writing. <b>Where the data subject makes the request in electronic form, the information shall be provided</b> in electronic form, <b>unless otherwise</b> requested by the data subject.</p>	<p>2. The controller shall inform the data subject without delay and, at the latest within one month of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information shall be <b>provided</b> in writing <b>or</b> in electronic form, <b>however</b> requested by the data subject.</p>
<p>Comment: This amendment is meant to clarify the data controller’s obligation to respect the choice of the form of communication made by the data subject. The amendment would permit an electronic request (for, say, internet records) to be responded to with thousands of pages of paper. It is inappropriate to remove coherence and predictability from the text in this way.</p>	

Amendment 1133 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without <i>delay and, at the latest within one month of receipt of the request</i> , whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. <i>This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller.</i> The information shall be given in writing. <i>Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</i>	2. The controller shall inform the data subject without <i>excessive delay</i> whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. The information shall be given in writing.
Comment: This amendment removes some of the safeguards (the obligation to respond within a set time limit, the obligation to respect the choice of form of communication made by the data subject). Thus it creates a risk of abuse and interpretation, which will be detrimental for the data subject. It is unhelpful for all stakeholders to replace clear text with subjective text that removes predictability and coherence.	

Amendment 1134 Proposal for a regulation Article 12 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall inform the data subject without delay and, at the latest within <i>one month</i> of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further <i>month</i> , if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller. The information <i>shall be given in writing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form</i> , unless otherwise requested by the data subject.	2. The controller shall inform the data subject without <i>undue</i> delay and, at the latest within <i>30 working days</i> of receipt of the request, whether or not any action has been taken pursuant to Article 13 and Articles 15 to 19 and shall provide the requested information. This period may be prolonged for a further <i>30 working days</i> , if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller <i>or in case</i> the information <i>would be incomplete or inaccurate. The information shall be given in the medium in which it was requested</i> unless otherwise requested by the data subject.
Comment: This amendment does not weaken any of the essential safeguards, only proposes different drafting.	

Amendment 1135 Proposal for a regulation Article 12 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>

3. If the controller <i>refuses to</i> take action on the request of the data subject, the <i>controller</i> shall <i>inform the data subject of the</i> reasons for the <i>refusal</i> and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.	3. If the controller <i>does not</i> take action on the request of the data subject, the <i>data subject</i> shall <i>have the right to ask the controller for the</i> reasons for the <i>inaction</i> and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.
Comment: This amendment weakens one of important safeguards of the data subjects' rights, namely the right to be informed about the reasons for the refusal. Replacing this right with "the right to ask" (without respective obligation to respond on the part of the data controller) is detrimental from data subjects' perspective. Citizens already have the right to ask – this paragraph, as amended by this text, would be devoid of meaning.	

Amendment 1136 Proposal for a regulation Article 12 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. If the controller refuses to take action on the request of the data subject, the controller shall inform the data subject of the reasons for the refusal and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.	3. If the controller refuses to take action on the request of the data subject, the controller shall inform the data subject of the reasons for the refusal, <i>all facts which lead to the refusal</i> and on the possibilities of lodging a complaint to the supervisory authority and seeking a judicial remedy.
Comment: This amendment aims at strengthening data subject's right to obtain information about the reasons for the refusal by extending it to all facts which led to the refusal. This type of information may turn out to be very helpful in the case of legal action.	

Amendment 1137 Proposal for a regulation Article 12 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. If the controller <i>refuses to</i> take action on the request of the data subject, <i>the controller shall inform</i> the data subject <i>of the reasons for the refusal and on the possibilities of lodging</i> a complaint <i>to</i> the supervisory authority <i>and seeking a judicial remedy</i> .	3. If the controller <i>does not</i> take action on the request of the data subject, the data subject <i>shall have the right to lodge</i> a complaint <i>with</i> the supervisory authority.
Comment: This amendment weakens one of important safeguards of the data subjects' rights, namely the right to be informed about the reasons for the refusal. By mentioning data subject's right to lodge a complaint with the supervisory authority it does not increase the standard of protection since this right applies anyway. Without knowing the controllers defence, if there is one, the data subject will have less clarity as to whether a complaint would be justifiable and/or likely to succeed.	

Amendment 1138 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee <i>for providing the information or taking the action requested, or the</i>	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character <i>or their complexity</i> , the controller may charge a fee <i>that reflects the administrative costs for providing</i>



<i>controller may not take</i> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	<i>the information or taking</i> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
Comment: The fact that the fee should be cost-based is a minor improvement to the original.	

Amendment 1139 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee <b>for providing the information or taking the action requested, or the controller may not take</b> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character <b>or their complexity</b> , the controller may charge a fee <b>that reflects the administrative costs for providing the information or taking</b> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
Comment: This amendment does not affect the safeguards of the data subject’s rights in a significant way. The proposal to make the charge cost-based rather than apparently discretionary on the part of the controller seems positive.	

Amendment 1140 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a <b>fee for providing the information or taking the action requested, or the controller may not take</b> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a <b>reasonable fee taking into account the administrative costs for providing the information or taking</b> the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
Comment: This amendment does not affect the safeguards of the data subject’s rights in a significant way. The proposal to make the charge cost-based rather than apparently discretionary on the part of the controller seems positive.	

Amendment 1141 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, <b>in particular because of their</b>	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, <b>if the request of the same character repeats more than once per 6</b>

<i>repetitive</i> character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the <b>manifestly excessive character</b> of the request.	<i>months</i> , the controller may charge <b>an administrative</b> fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the <b>repetitiveness</b> of the request.
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way, while it adds more clarity to what is meant by "repetitive character" of data subject's request.	

Amendment 1142 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. <b>Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.</b>	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge, <b>except for the costs actually bore by the controller to handle the requests. Where requests are vexatious or manifestly excessive, in particular because of their repetitive character, the controller may refuse to take the action requested.</b>
Comment: This amendment significantly limits the safeguards of the data subjects' rights because it allows for imposing a charge for handling data subject's requests even if such costs are not excessive. It seems reasonable that providing access to personal data should be considered part of the business costs, unless this access is exceptional and excessive.	

Amendment 1143 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. <b>Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.</b>	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge.
Comment: This amendment is aimed at strengthening the safeguards of data subjects' rights by proposing an unconditional obligation of fulfilling their requests free of charge.	

Amendment 1144 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a fee for providing the information or taking the action requested, <b>or the controller may not take the action</b> requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a <b>reasonable</b> fee for providing the information or taking the action requested. <b>The level of such a fee shall not exceed the costs of providing the information</b> requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
Comment: This amendment adds more clarity and creates additional safeguards with regard to the level of fee that can be charged from the data subject. In addition it removes the possibility of refusing the action requested by the data subject, thus strengthening his or her position versus the data controller.	

Amendment 1145 Proposal for a regulation Article 12 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The information and the actions taken on requests referred to in paragraph 1 shall be free of charge. Where requests are manifestly excessive, in particular <b>because of</b> their repetitive character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.	4. The information and the actions taken on requests referred to in paragraph 1 shall be <b>either</b> free of charge <b>or at a maximum, sufficient to cover the administrative costs of handling, particularly with regard to repeat or bulk requests.</b> Where requests are manifestly excessive, in particular <b>with the aim of causing disruption, inconvenience or financial burden due to</b> their repetitive character, the controller may charge a fee for providing the information or taking the action requested, or the controller may not take the action requested. In that case, the controller shall bear the burden of proving the manifestly excessive character of the request.
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way, while it even adds more clarity. It seems inappropriate to create a right for the data controller based on his/her decisions regarding the motivations of the data requests.	

Amendment 1146 Proposal for a regulation Article 12 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>4a. The following shall apply to requests under Article 15:</b></p> <p>(a) <b>the controller may charge a fee for providing the relevant information. Such a fee shall not be excessive;</b></p> <p>(b) <b>no obligation to provide the relevant information shall apply</b></p>

	<p><i>until the controller has received the following;</i></p> <ul style="list-style-type: none"> <li><i>(i) any fee required in accordance with (a) above; and</i></li> <li><i>(ii) any information as to the identity of the person making a request as the controller may reasonably require.</i></li> <li><i>(c) where a data controller has previously complied with a request by an individual, the data controller is not obliged to comply with a subsequent identical or similar request under that section by that individual unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request;</i></li> <li><i>(d) the controller must have regard to any guidance issued under Article 38 in deciding:</i> <ul style="list-style-type: none"> <li><i>(i) whether a subsequent request is identical or similar to a previous request;</i></li> <li><i>(ii) whether a reasonable interval has elapsed between compliance with the previous request and the making of the current request.</i></li> </ul> </li> </ul>
<p>Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.</p>	

<p>Amendment 1147 Proposal for a regulation Article 12 – paragraph 5</p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p><i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</i></p>	<p><i>deleted</i></p>
<p>Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.</p>	

Amendment 1148 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</b>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1149 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</b>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1150 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</b>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1151 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</b>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1152 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</i>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1153 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the manifestly excessive requests and the fees referred to in paragraph 4.</i>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1154 Proposal for a regulation Article 12 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for <b><i>the manifestly excessive requests and</i></b> the fees referred to in paragraph 4.	5. The Commission shall be empowered to adopt, <b><i>after requesting an opinion the European Data Protection Board,</i></b> delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for the fees referred to in paragraph 4.
Comment: This amendment is aimed at strengthening the position of European Data Protection Board and ensuring, through their guidance, that the criteria and conditions for the fees that may be charged from data subjects will be fair.	

Amendment 1155 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in</i>	<i>deleted</i>

<i>accordance with the examination procedure set out in Article 87(2).</i>	
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1156 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</i>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1157 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</i>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1158 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination</i>	<i>deleted</i>

<i>procedure set out in Article 87(2).</i>	
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1159 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</i>	<i>deleted</i>
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1160 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission <i>may</i> lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. <i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	6. The Commission <i>shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying down</i> standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises.
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1161 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may <i>lay down standard forms and specifying</i> standard procedures for the communication referred to in paragraph 2, <i>including the electronic format</i> . In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may <i>specify</i> standard procedures for the communication referred to in paragraph 2. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).



Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.

Amendment 1162 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may lay down standard forms and specifying standard procedures for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted <b><i>after adopting an opinion of the European Data Protection Board</i></b> in accordance with the examination procedure referred to in Article 87(2).
Comment: This amendment does not affect the safeguards of the data subject's rights in a significant way.	

Amendment 1163 Proposal for a regulation Article 12 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down standard forms <b><i>and specifying standard procedures</i></b> for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may lay down standard forms for the communication referred to in paragraph 2, including the electronic format. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized enterprises. Those implementing acts shall be adopted <b><i>after adopting an opinion of the European Data Protection Board</i></b> , in accordance with the examination procedure referred to in Article 87(2). <b><i>If the Commission invokes its prerogatives under Article 10 of Regulation 2012/1025 it shall ensure adequate representation of micro, small and medium sized enterprises, consumer groups and agreement of the European Data Protection Board with the use of these industry standards for the purposes of this Regulation.</i></b>
Comment: This amendment is meant to ensure more influence of the European Data Protection Board and consumer groups in determining standard forms for the communication between data subjects and data controller.	

Amendment 1164 Proposal for a regulation Article 13 – title	
<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>Rights in relation to recipients</i></b>	<b><i>Notification requirement in the event of rectification and erasure</i></b>
Comment: This amendment adds more clarity with regard to the meaning of article 13.	

Amendment 1165 Proposal for a regulation Article 13 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed, unless this proves impossible or involves a disproportionate effort.</i>	<i>deleted</i>
Comment: see justification for Amendment 1168 and 1169	

Amendment 1166 Proposal for a regulation Article 13 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed, unless this proves impossible or involves a disproportionate effort.	The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient <b><i>with whom he stays in contractual relationship and</i></b> to whom the data have been disclosed, unless this proves impossible or involves a disproportionate effort.
Comment: This amendment does not limit data subjects' rights in a significant way, while it limits the red tape on the side of data controllers and makes their obligation (to communicate rectification or erasure to the recipients of data) more reasonable.	

Amendment 1167 Proposal for a regulation Article 13 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
The controller shall communicate any rectification or erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed, <b><i>unless this proves impossible or involves a disproportionate effort.</i></b>	The controller shall communicate any rectification or <b><i>any</i></b> erasure carried out in accordance with Articles 16 and 17 to each recipient to whom the data have been disclosed. <b><i>The controller shall inform the person concerned of the existence of these third parties.</i></b>
Comment: This further obligation does not seem to be necessary in order to safeguard the rights of the data subjects, while it may add even more red tape.	

Amendment 1168 Proposal for a regulation Article 13 – paragraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>The data controller directly responsible for the operation shall notify all recipients to whom data from him or her have been passed on of any correction or erasure that has been made or any objection raised under Article 16, 17 or 19. Where recipients of personal data are unknown to the data controller directly responsible for the operation, and this is not due to his or her deliberate act or negligence, he or she shall be</i></b>

	<i>exempted from this requirement.</i>
Comment: This amendment does not limit data subjects' rights in a significant way, while it limits the red tape on the side of data controllers and makes their obligation (to communicate rectification or erasure to the recipients of data) more reasonable.	

Amendment 1169 Proposal for a regulation Article 13 – paragraph 1 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>The data controller indirectly responsible for the operation shall notify all recipients to whom he or she has passed on data of any correction or erasure that has been made or any objection raised under Article 16, 17 or 19, except where they have already been notified in accordance with paragraph 1 above.</i>
Comment: This amendment strengthens the rights of data subjects by extending the obligation to notify recipients about any correction or erasure to data controllers that are indirectly responsible for the operation.	

Amendment 1170 Proposal for a regulation Article 13 – subparagraph 1 c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>The burden of proof of compliance with the above obligations shall rest with the data controllers.</i>
Comment: This amendment strengthens the rights of data subjects by ensuring that the burden of proof of compliance with notification obligations rests with data controllers.	

Amendment 1171 Proposal for a regulation Article 13 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 13a</i></p> <p style="text-align: center;"><i>Standardized information policies</i></p> <p style="text-align: center;"><i>1. Where at least one of the risk factors referred to under Article 5b(1) to (10) exists and where personal data relating to a data subject are collected, the controller shall provide the data subject with the following particulars before providing information pursuant to Article 14:</i></p> <p style="text-align: center;"><i>(a) whether personal data are collected beyond the minimum necessary for each specific purpose of the processing;</i></p>

- (b) whether personal data are retained beyond the minimum necessary for each specific purpose of the processing;*
  - (c) whether personal data are processed for purposes other than the purposes for which they were collected;*
  - (d) whether personal data are disseminated to non-public third parties for purposes other than the purposes for which they were collected;*
  - (e) whether personal data are sold;*
  - (f) whether personal data are retained in encrypted form.*
- 2. The particulars referred to in paragraph 1 shall be presented pursuant to Annex X in an aligned tabular format, using text and symbols, in the following three columns:**
- (a) the first column depicts graphical forms symbolising those particulars;*
  - (b) the second column contains essential information describing those particulars;*
  - (c) the third column depicts graphical forms indicating whether a specific particular is met.*
- 3. The information referred to in paragraphs 1 and 2 shall be presented in an easily visible and clearly legible way and shall appear in a language easily understood by the consumers of the Member States to whom the information is provided. Where the particulars are presented electronically, they shall be machine readable.**
- 4. Additional particulars shall not be provided. Detailed explanations or**

	<p><i>further remarks regarding the particulars referred to in paragraph 1 may be provided together with the other information requirements pursuant to Article 14.</i></p> <p><b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the particulars referred to in paragraph 1 and their presentation as referred to in paragraph 2 and in Annex X.</b></p>
<p>Comment: On the face of it this amendment is aimed at strengthening data subjects' right to obtain information. However, it is difficult to determine its impact without looking at other, related amendments proposed by Alexander Alvaro.</p>	

**Amendment 1173 Proposal for a regulation  
Article 14 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>1. Where personal data relating to data subject are collected, the controller shall provide the data subject with at least the following information:</b></p> <p><b>(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer;</b></p> <p><b>(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);</b></p> <p><b>(c) the period for which the personal data will be stored;</b></p> <p><b>(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject or to object to the processing of such personal data;</b></p>	<p><i>deleted</i></p>

<p>(e) <i>the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;</i></p> <p>(f) <i>the recipients or categories of recipients of the personal data;</i></p> <p>(g) <i>where applicable, that the controller intends to transfer to a third country or international organisation and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;</i></p> <p>(h) <i>any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i></p>	
<p>Comment: This amendment goes against the basic principles of the regulation and the notion of ensuring protection data subjects' rights, which require a strong right to information about data processing as their precondition.</p>	

<p style="background-color: red; color: black; padding: 5px;">Amendment 1174 Proposal for a regulation Article 14 – paragraph 1 – introductory part</p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p>1. Where personal data relating to a data subject are collected, the controller shall provide the data subject <b>with</b> at least <b>the following</b> information:</p>	<p>1. <b>Where none of the risk factors referred to under Article 5b(1) to (10) exist and</b> where personal data relating to a data subject are collected, the controller shall provide the data subject, <b>on request, with the following information.</b></p> <p><b>Where at least two of the risk factors referred to under Article 5b(1) to (10) exist and where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following</b> information.</p>
<p>Comment: This amendment dilutes the right to information by making it dependent on data subject's request and the level of risk related to data processing. The right to information, being a precondition of effective realisation of other rights of the data subject, should be strong and unconditional. This increase unpredictability and reduces clarity.</p>	

Amendment 1175 Proposal for a regulation Article 14 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. <i>Where personal data relating to a data subject are collected, the controller shall provide the data subject with</i> at least the following <i>information</i> :	1. The controller <i>directly responsible for the operation and, if applicable, his representative</i> , shall at least <i>document</i> the following:
Comment: This amendment removes the obligation of the data controller to provide (actively) relevant information to the data subject and therefore cannot be accepted. It also clearly makes not sense to impose the obligation on the controller AND his representative.	

Amendment 1176 Proposal for a regulation Article 14 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following information:	1. Where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following information. <i>The following paragraphs do not apply to small enterprises in the course of their own activity and for data which is strictly and exclusively for their internal use.</i>
Comment: This amendment proposes very broad exemption from the obligation to provide information for small enterprises “in the course of their own activity”, which will effectively remove this obligation in the majority of relationships between data controllers and data subjects. It will also create serious interpretative doubts because the term “small enterprises” is unclear and likely to be abused.	

Amendment 1177 Proposal for a regulation Article 14 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Where personal data relating to a data subject are collected, the controller shall provide the data subject <i>with</i> at least the following information:	1. Where personal data relating to a data subject are collected, the controller shall provide <i>or make readily available to</i> the data subject at least the following information:
Comment: This amendment does not limit data subjects’ rights in a significant way, while it provides certain relief from data controllers’ point of view.	

Amendment 1178 Proposal for a regulation Article 14 – paragraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>1a. Where personal data relating to a data subject is collected from the data subject, the controller shall at the time when personal data are obtained, provide the data subject with the following information:</i></p> <p style="padding-left: 40px;"><i>(a) the identity and the contract details of the controller and, if any, of the controller's representative and of the data protection officer;</i></p> <p style="padding-left: 40px;"><i>(b) the purpose of the processing for</i></p>

	<p><i>which the personal data are intended, including the contract terms and general conditions.</i></p> <p><i>Further information shall be provided at the request of the data subject, which would include the following information:</i></p> <ul style="list-style-type: none"> <li><i>(a) the period for which the personal data will be stored;</i></li> <li><i>(b) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject or to object to the processing of such personal data;</i></li> <li><i>(c) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;</i></li> <li><i>(d) the recipients or categories of recipients of the personal data;</i></li> <li><i>(e) where applicable, that the controller intends to transfer to a third country or international organisation and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;</i></li> <li><i>(f) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i></li> </ul>
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Comment: This amendment limits the obligation to provide information to the data subject, in many respects making it conditional upon request. The assumption that an average person will be aware of his/her rights and will request such information lacks confirmation in available research. There is no obvious public policy goal to be achieved by permitting controllers to avoid sharing this information.

Amendment 1179 Proposal for a regulation Article 14 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer;	(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer <b>or</b> ,



	<i>if significant, the identity and contact details of the group of undertakings and its data protection officer;</i>
Comment: This amendment will not affect data subjects' rights in a significant way.	

Amendment 1180 Proposal for a regulation Article 14 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) the identity and the contact details of the controller and, if any, of the controller's representative <b>and of the data protection officer;</b>	(a) the identity and the contact details of the controller and, if any, of the controller's representative;
Comment: Data subject should have a possibility to contact data protection officer, if such a person has been appointed by the company. Nevertheless, this is not essential.	

Amendment 1181 Proposal for a regulation Article 14 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
a) the <b>identity and the</b> contact details of the controller and, if any, of the controller's representative and of the data protection officer;	a) the contact details of the controller and, if any, of the controller's representative and of the data protection officer;
Comment: The purpose of this amendment is not clear to us but it may lead to rather awkward and undesirable situation, when the data subject is not fully aware who is the data controller (contact details without identity may be confusing). The public policy goal that could be achieved by this amendment is not obvious.	

Amendment 1182 Proposal for a regulation Article 14 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer;	(a) the identity and the contact details of the controller and, if any, of the controller's representative and <b>the contact details</b> of the data protection officer;
Comment: This amendment does not limit data subjects' rights in a significant way.	

Amendment 1183 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);	(b) the <b>specific</b> purposes of the processing for which the personal data are intended <b>as well as information regarding the security of the processing of personal data</b> , including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);
Comment: This amendment strengthens the obligation to provide information to the data subject by adding that purposes should be “specific” and demanding information regarding the security of the	

processing of personal data. This is in line with the principle of purpose limitation.

Amendment 1184 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);	(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on <b>Article 6(1)(f), (1a) and (1b)</b> ;
Comment: This amendment strengthens the obligation to provide information to the data subject by adding that purposes should be “specific” and demanding information regarding the security of the processing of personal data. This is in line with the principle of purpose limitation.	

Amendment 1185 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, <b>including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1)</b> ;	(b) the purposes of the processing for which the personal data are intended;
Comment: This amendment proposes unacceptable limitation of data subjects’ rights by removing the obligation to reveal that data are processed on the grounds of legitimate interest clause. This is essential also for the data subject to exercise his / her right to object to such processing. It is not clear what concerns of a legitimate and law-abiding data controllers could be addressed by this amendment – although it is clear how it could be abused by less scrupulous data controllers.	

Amendement 1186 Proposal for a regulation Article 14 - paragraph 1 - point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which <b>the</b> personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate <b>interests</b> pursued by the controller where the processing is based on point (f) of Article 6(1);	(b) the purposes of the processing for which <b>each category of</b> personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the <b>predominant</b> legitimate <b>interest</b> pursued by the controller where the processing is based on point (f) of Article 6(1)
Comment: This amendment seems to be based on a good premise. Mentioning “each category” of data is a positive change. Full information about the use of legitimate interest clause is essential also for the data subject to exercise his / her right to object to such processing.	

Amendment 1187 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on <b>point (f) of Article 6(1)</b> ;	(b) the <b>specific purpose or</b> purposes of the processing for which the personal data are intended, including <b>in relation to the provisions of Article 6, and notably</b> the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on <b>Article 6(1a) and (1b)</b> ;
Comment: This amendment strengthens the obligation to provide information to the data subject by adding that purposes should be “specific”. This is in line with the principle of purpose limitation.	

Amendment 1188 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the <b>purposes of the processing</b> for which the <b>personal</b> data are intended, <b>including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1)</b> ;	(b) the <b>purpose or purposes</b> for which the data are intended <b>to be processed; and</b>
Comment: This amendment proposes an unacceptable limitation of data subjects’ rights by removing the obligation to reveal that data are processed on the grounds of legitimate interest clause. This is essential also for the data subject to exercise his / her right to object to such processing.	

Amendment 1189 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, <b>including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1)</b> ;	(b) the purposes of the processing for which the personal data are intended;
Comment: This amendment proposes an unacceptable limitation of data subjects’ rights by removing the obligation to reveal that data are processed on the grounds of legitimate interest clause. This is essential also for the data subject to exercise his / her right to object to such processing.	

Amendment 1190 Proposal for a regulation Article 14 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the purposes of the processing for which the personal data are intended, <b>including the contract terms and general conditions where the processing is based on point (b) of Article</b>	(b) the purposes of the processing for which the personal data are intended;

<b>6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);</b>	
Comment: This amendment proposes an unacceptable limitation of data subjects' rights by removing the obligation to reveal that data are processed on the grounds of legitimate interest clause. This is essential also for the data subject to exercise his / her right to object to such processing.	

<b>Amendment 1191 Proposal for a regulation Article 14 – paragraph 1 – point c</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>(c) the period for which the personal data will be stored;</b>	<b>deleted</b>
Comment: This amendment proposes an unacceptable limitation of data subjects' rights by removing the obligation to reveal the period for which personal data will be stored.	

<b>Amendment 1192 Proposal for a regulation Article 14 – paragraph 1 – point c</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>(c) the period for which the personal data will be stored;</b>	<b>deleted</b>
Comment: This amendment proposes unacceptable limitation of data subjects' rights by removing the obligation to reveal the period for which personal data will be stored.	

<b>Amendment 1193 Proposal for a regulation Article 14 – paragraph 1 – point c</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>(c) the period for which the personal data will be stored;</b>	<b>deleted</b>
Comment: This amendment proposes an unacceptable limitation of data subjects' rights by removing the obligation to reveal the period for which personal data will be stored.	

<b>Amendment 1194 Proposal for a regulation Article 14 – paragraph 1 – point c</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>(c) the period for which the personal data will be stored;</b>	<b>(c) the <i>estimated</i> period for which the personal data will be stored;</b>
Comment: This amendment does not limit data subjects' rights in a significant way and may constitute a good compromise between the interests of data subjects and data controllers.	

<b>Amendment 1195 Proposal for a regulation Article 14 – paragraph 1 – point c</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<b>(c) the period for which the personal data will be stored;</b>	<b>(c) the <i>estimated</i> period for which the personal data will be stored;</b>
Comment: This amendment does not limit data subjects' rights in a significant way and may constitute a good compromise between the interests of data subjects and data controllers.	

Amendment 1196 Proposal for a regulation Article 14 – paragraph 1 – point c	
<b>Commission Proposal</b>	<b>Amendment</b>
(c) the period for which the personal data will be stored;	(c) the period for which the personal data will be stored <b>and if not possible the criteria used to determine this period;</b>
Comment: This amendment does not limit data subjects' rights in a significant way and may constitute a good compromise between the interests of data subjects and data controllers. Nevertheless, we have some doubts with regard to the new wording because it could open a loophole allowing controllers to provide data subjects only with unclear criteria instead of a fixed period.	

Amendment 1197 Proposal for a regulation Article 14 – paragraph 1 – point c	
<b>Commission Proposal</b>	<b>Amendment</b>
(c) the period for which <b>the</b> personal data will be stored;	(c) the period for which <b>each category of</b> personal data will be stored;
Comment: This amendment proposes distinguishing between different categories of data being stored, which is very positive from data subjects' perspective.	

Amendment 1198 Proposal for a regulation Article 14 – paragraph 1 – point c	
<b>Commission Proposal</b>	<b>Amendment</b>
(c) the period for which the personal data will be stored;	(c) the period for which the personal data will be stored, <b>provided that this is known;</b>
Comment: This amendment does not limit data subjects' rights in a significant way and may constitute a good compromise between the interests of data subjects and data controllers. Nevertheless, we have some doubts with regard to the new wording because it could open a loophole allowing controllers to provide data subjects only with unclear criteria instead of a fixed period. Amendment 1195 would, however, be preferable.	

Amendment 1199 Proposal for a regulation Article 14 – paragraph 1 – point c	
<b>Commission Proposal</b>	<b>Amendment</b>
(c) the period for which the personal data will be stored;	(c) <b>where possible,</b> the period for which the personal data will be stored;
Comment: This amendment could open a loophole allowing controllers not to provide data subjects with information regarding the period for which their data will be stored. Note that the Commission wording would also allow formulations such as "for the duration of the contract plus 6 months", as it seems that this amendment is motivated by situations dealing with indeterminate contracts.	

Amendment 1200 Proposal for a regulation Article 14 – paragraph 1 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) the period for which the personal data will be stored;	(c) the period for which the personal data will be stored <b>and, where appropriate, archived;</b>
Comment: This amendment is aimed at providing even more information to the data subject. Stored and archived are the same thing – this amd adds nothing.	

Amendment 1201 Proposal for a regulation Article 14 – paragraph 1 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject <b>or</b> to object to the processing of such personal data;	(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject <b>and</b> to object to the processing of such personal data;
Comment: This amendment is aimed at providing even more information to the data subject. This amendment would maintain the rectification rights of the data subject if the right to object (where a legal requirement not to delete the information exists), does not lead to lead to erasure and the right to rectification needs to be maintained.	

Amendment 1202 Proposal for a regulation Article 14 – paragraph 1 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject or to object to the processing of such personal data;	(d) the existence of the right to request from the controller access to and rectification, <b>to be forgotten</b> or erasure of the personal data concerning the data subject or to object to the processing of such personal data <b>or to obtain data portability;</b>
Comment: This amendment is aimed at providing even more information to the data subject, in particular about his/her rights.	

Amendment 1203 Proposal for a regulation Article 14 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>(e) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;</b>	<b>deleted</b>
Comment: This amendment proposes an unacceptable limitation of data subjects' rights by removing the obligation to inform them about the right to lodge a complaint to the supervisory authority.	

Amendment 1204 Proposal for a regulation Article 14 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) the right to lodge a complaint to the supervisory authority <b>and the contact details of the supervisory authority;</b>	(e) the right to lodge a complaint to the supervisory authority;

Comment: Given that the addresses of supervisory authorities rarely change, this obligation does not seem excessive. The public goal being pursued by the amendment appears questionable at best.

Amendment 1205 Proposal for a regulation Article 14 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) the recipients or categories of recipients of the personal data;	(f) the recipients or categories of recipients of the personal data, <b><i>in particular in the cases referred to in Article 20;</i></b>
Comment: This amendment is aimed at providing even more information to the data subject, with particular reference to profiling, which is positive.	

Amendment 1206 Proposal for a regulation Article 14 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) the recipients or categories of recipients of the personal data;	(f) <b><i>where applicable</i></b> , the recipients or categories of recipients of the personal data <b><i>outside the controller or the group of undertakings of which the controller is member;</i></b>
Comment: This amendment significantly limits the obligation of data controllers to inform data subjects about categories of recipients, which will have a negative impact on their ability to control the flow of their data.	

Amendment 1207 Proposal for a regulation Article 14 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) the recipients or categories of recipients of <b><i>the</i></b> personal data;	(f) the recipients or categories of recipients of <b><i>each category of</i></b> personal data;
Comment: This amendment proposes distinguishing between different categories of data being shared with other entities, which is very positive from data subjects' perspective.	

Amendment 1208 Proposal for a regulation Article 14 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) the recipients <b><i>or categories of recipients of the</i></b> personal data;	(f) the recipients <b><i>of the personal data, including the controllers to whom personal data are disclosed for the legitimate interests pursued by them;</i></b>
Comment: This amendment is aimed at providing even more information to the data subject, with particular reference to his/her data being disclosed under legitimate interest clause, which is very positive.	

Amendment 1209 Proposal for a regulation Article 14 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) the recipients <b><i>or categories of recipients of the</i></b> personal data;	(f) the <b><i>identity and contact details of all</i></b> recipients <b><i>who process</i></b> the personal data <b><i>received from the direct controller, and the purposes of the processing, irrespective of whether they have</i></b>

	<i>received the data directly from him or indirectly from another party. This shall not apply insofar as recipients are unknown, and this state of affairs has not arisen due to the deliberate intent or negligence of the direct controller.</i>
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Comment: This amendment is aimed at providing even more information to the data subject with regard to data recipients and their purposes of processing. At the same time it takes into account the situation, when data recipients are unknown.

**Amendment 1210 Proposal for a regulation  
Article 14 – paragraph 1 – point g**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(g) where applicable, that the controller intends to transfer to a third country or international organisation and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;</i>	<i>deleted</i>

Comment: This amendment removes the obligation of data controllers to inform data subjects about intended data transfers, which will have a negative impact on their ability to control the flow of their data.

**Amendment 1211 Proposal for a regulation  
Article 14 – paragraph 1 – point g**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(g) where applicable, that the controller intends to transfer to a third country or international organisation <b>and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;</b></i>	<i>(g) where applicable, that the controller intends to transfer to a third country or international organisation;</i>

Comment: This amendment removes the obligation to provide information about a crucial aspect of data transfers, i.e. the level of protection afforded by the third country. Information about where the data are sent is of little value without this knowledge.

**Amendment 1212 Proposal for a regulation  
Article 14 – paragraph 1 – point g**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(g) where applicable, <b>that the controller intends to</b> transfer to a third country or international organisation and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;</i>	<i>(g) where applicable, transfer <b>of the data</b> to a third country or international organisation <b>or the intention of the controller to make such a transfer and information</b> on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission. <b>In the cases referred to in Article 44(1)(h), the documentation should also include evidence that appropriate safeguards are in place;</b></i>

Comment: This amendment does not affect data subjects' rights in a significant way



Amendment 1213 Proposal for a regulation Article 14 – paragraph 1 – point g a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ga) where applicable, information whether data was provided to law enforcement authorities during the last consecutive 12-month period, notwithstanding of Member States' law enforcement legislation;</i>
Comment: This amendment is aimed at providing even more information to the data subject.	

Amendment 1214 Proposal for a regulation Article 14 – paragraph 1 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i>	<i>deleted</i>
Comment: This amendment removed important aspect of the right to information and cannot be accepted.	

Amendment 1215 Proposal for a regulation Article 14 – paragraph 1 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i>	<i>deleted</i>
Comment: This amendment removed important aspect of the right to information and cannot be accepted.	

Amendment 1216 Proposal for a regulation Article 14 – paragraph 1 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i>	<i>(h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected. <b>In particular, such information shall contain the existence of certain processing activities and operations for which personal data impact assessments have indicated that their may be a high risk, the measures taken in respect of the impact assessment, the existence of any measures of profiling, their legal grounds and their consequences for that particular data subject.</b></i>
Comment: This amendment offers useful clarification with regard to what information should be provided to the data subject.	

Amendment 1217 Proposal for a regulation Article 14 – paragraph 1 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>
(h) any further information necessary <i>to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.</i>	(h) any further information <i>which is</i> necessary, <i>having regard to the specific circumstances in which the data are or are to be processed, to enable processing in respect of the data subject to be fair.</i>
Comment: This amendment does not affect data subjects' rights in a significant way. The text is, however, less clear than the original and weakens "guarantees" to "enables".	

Amendment 1218 Proposal for a regulation Article 14 – paragraph 1 – point h a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ha) communications pursuant to Article 13(1).</i>
Comment: This amendment is aimed at providing even more information to the data subject.	

Amendment 1219 Proposal for a regulation Article 14 – paragraph 1 – point h a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>((ha) the rights and mechanisms which can be exercised or used in order to object to or prevent the processing of personal data and, in particular, the existence or otherwise of an opt-out list and its characteristics.</i>
Comment: This amendment is aimed at providing even more information to the data subject.	

Amendment 1220 Proposal for a regulation Article 14 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is obligatory or voluntary, as well as the possible consequences of failure to provide such data.</i>	<i>deleted</i>
Comment: This amendment removes very important and fundamental safeguard: obtaining such information (whether the provision of personal data is necessary and what are the consequences of failure to provide such data) is essential for the data subject to make informed choices about entering into a contract or giving his/her consent to data processing.	

Amendment 1217 Proposal for a regulation Article 14 – paragraph 1 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>

(h) any further information necessary <i>to guarantee fair processing in respect of</i> the data subject, <i>having regard to the specific circumstances in which the personal data are collected.</i>	(h) any further information <i>which is</i> necessary, <i>having regard to the specific circumstances in which</i> the data are or are to be processed, <i>to enable processing in respect of the data subject to be fair.</i>
Comment: This amendment does not affect data subjects' rights in a significant way. It is, however, less clear and weakens "guarantees" to "enables".	

Amendment 1221 Proposal for a regulation Article 14 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. <i>Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is obligatory or voluntary, as well as the possible consequences of failure to provide such data.</i>	2. The <i>indirect</i> controller <i>and, if applicable, his representative, shall at least document the following:</i> <i>(a) the information referred to in Article 14(1)(a), (b), (c), (d), (e), (g) and (h);</i> <i>(b) the identity and the contact details of all recipients who process personal data received from the indirect controller, and the purposes of the processing;</i> <i>(c) the identity and the contact details of the direct controller and, if any, of his representative;</i> <i>(d) communications pursuant to Article 13(2).</i>
Comment: "Indirect controller" has no meaning in the regulation. It is a badly drafted amendment.	

Amendment 1222 Proposal for a regulation Article 14 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is obligatory <i>or voluntary, as well as the possible consequences of failure to provide such data.</i>	2. Where the personal data are collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is obligatory.
Comment: information about possible consequences of failure to provide such data is important since only on that basis the data subject can make full-informed choices. The motivation appears to be designed to permit controllers to withhold information and mislead data subjects about the significance of providing personal data.	

Amendment 1223 Proposal for a regulation Article 14 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. In deciding on further information which is necessary to make the processing fair under 1(d), controllers must have regard to any relevant guidance under Article 38.</i>
Comment: This amendment does not affect data subjects' rights in a significant way.	

Amendment 1224 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.</b>	<i>deleted</i>
Comment: This amendment removes very important safeguard: obtaining information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses.	

Amendment 1225 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.	3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate, <b><i>except where the data originate from a publicly available source or where the transfer is provided for by law.</i></b>
Comment: This amendment limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The term “publicly available source” is not clear and creates a possibility of abuse. Under this amendment, data illegally published online following a data leak could be reused by data controllers without the data subject even being made aware of this	

Amendment 1226 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.	3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate <b><i>except where the data originate from a publicly available source or where the transfer is provided by law or the processing is used for purposes relating to the professional activities of the person concerned.</i></b>
Comment: This amendment limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The term “publicly available source” is not clear and creates a possibility of abuse. Under this amendment, data illegally published online following a data leak could be reused by data controllers without the data subject even being made aware of this	

Amendment 1227 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>

<p>3. Where the personal data are <i>not</i> collected from the data subject, <b><i>the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.</i></b></p>	<p>3. Where the personal data are collected from the data subject,  <b><i>(a) the direct controller shall, at the time when the data are collected or immediately thereafter, inform the data subject, in addition to the information referred to in paragraph 1, whether the provision of personal data is obligatory or voluntary, as well as the possible consequences of failure to provide such data;</i></b>  <b><i>(b) the direct controller shall, after the first communication pursuant to paragraph 3(a), provide the information pursuant to paragraph 1 once a year, provided that changes have occurred in the information since it was last communicated.</i></b></p>
<p>Comment: This amendment does not limit data subjects' rights in a significant way, however it is difficult to assess its impact without looking at other related provisions.</p>	

<p><b>Amendment 1228 Proposal for a regulation Article 14 – paragraph 3</b></p>	
<p><b><i>Commission Proposal</i></b></p>	<p><b><i>Amendment</i></b></p>
<p>3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.</p>	<p>3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate, <b><i>except where the data originate from a publicly available source or where the transfer is provided for by law.</i></b></p>
<p>Comment: This amendment limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The term “publicly available source” is not clear and creates a possibility of abuse. Under this amendment, data illegally published online following a data leak could be reused by data controllers without the data subject even being made aware of this</p>	

<p><b>Amendment 1229 Proposal for a regulation Article 14 – paragraph 3</b></p>	
<p><b><i>Commission Proposal</i></b></p>	<p><b><i>Amendment</i></b></p>
<p>3. Where the personal data <b><i>are not collected from</i></b> the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.</p>	<p>3. Where the personal data <b><i>collected would have potentially harmful consequences or is wholly unrelated to</i></b> the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.</p>
<p>Comment: This amendment limits very important safeguard (by making it conditional upon data controllers' own assessment): obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The amendment also suggests that “personal data” could be “wholly unrelated” to the data subject, which is a logical impossibility.</p>	

Amendment 1230 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source <i>the</i> personal data originate.	3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source <i>each category of</i> personal data originate.
Comment: This amendment does not affect data subjects' rights in a significant way	

Amendment 1231 Proposal for a regulation Article 14 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.	3. Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which <i>categories of</i> source the personal data originate, <i>except where the data originate from a publicly available source or where the transfer is provided by law or the processing is used for purposes relating to the professional activities of the person concerned.</i>
Comment: This amendment limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The term “publicly available source” is not clear and creates a possibility of abuse. Under this amendment, data illegally published online following a data leak could be reused by data controllers without the data subject even being made aware of this	

Amendment 1232 Proposal for a regulation Article 14 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>4. The controller shall provide the information referred to in paragraphs 1, 2 and 3:</b></p> <p>(a) <i>at the time when the personal data are obtained from the data subject; or</i></p> <p>(b) <i>where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another</i></p>	<i>deleted</i>

<i>recipient is envisaged, and at the latest when the data are first disclosed.</i>	
Comment: This amendment removes important specification as to when information obligation should be fulfilled.	

Amendment 1233 Proposal for a regulation  
Article 14 – paragraph 4

<i>Commission Proposal</i>	<i>Amendment</i>
<p>4. The controller <i>shall provide the information referred to in paragraphs 1, 2 and 3:</i></p> <p style="padding-left: 40px;">(a) at the time when the personal data are <i>obtained from the data subject; or</i></p> <p style="padding-left: 40px;">(b) <i>where the personal data are not collected from the data subject, at the time of the recording or</i> within a reasonable period <i>after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another recipient is envisaged, and at the latest when the data are first disclosed.</i></p>	<p>4. <i>If the personal data are not collected from the data subject, the indirect controller shall, at the minimum, inform the direct controller of the purposes for which he is processing the personal data, stating his identity and contact details. This shall be done</i> at the time when the personal data are <i>collected or</i> within a reasonable period <i>thereafter, taking into account</i> the specific circumstances in which the data are collected or otherwise processed. <i>Article 20(4) shall apply in addition to this provision.</i></p>

Comment: It is difficult to assess the impact of this amendment without looking at other, related provisions. However, the concept of “indirect controller” does not seem to be useful, has not been defined and may only add more complexity to these provisions.

Amendment 1224 Proposal for a regulation  
Article 14 – paragraph 4 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
4. The controller shall provide the information referred to in paragraphs 1, 2 and 3:	4. The controller shall provide the information referred to in paragraphs 1, 2 and 3 <i>in tangible form:</i>

Comment: This amendment increases safeguards by ensuring that information is provided to the data subject in “tangible form”. The possibility of storing such information for future reference is very important.

Amendment 1235 Proposal for a regulation Article 14 – paragraph 4 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) at the time when the personal data are obtained from the data subject; or	(a) <b><i>in general</i></b> at the time when the personal data are obtained from the data subject <b><i>or as soon as possible where the above is not feasible, demands undue effort, or reduces the safeguards enjoyed by the data subject</i></b> ; or
Comment: This amendment introduces too much space for interpretation and legal uncertainty, thus weakening important safeguards.	

Amendment 1236 Proposal for a regulation Article 14 – paragraph 4 – point a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(aa) After a request by a data subject or a body, organization or association referred to in Article 73(2);</i></b>
Comment: This amendment increases safeguards by ensuring that information is provided in “tangible form” both to the data subjects and organizations that are set up to defend their interests. This is very important in the context of potential legal claims and various proceedings.	

Amendment 1237 Proposal for a regulation Article 14 – paragraph 4 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a <b><i>disclosure</i></b> to another <b><i>recipient</i></b> is envisaged, and at the latest <b><i>when the data are first disclosed</i></b> .	(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a <b><i>transfer</i></b> to another <b><i>controller</i></b> is envisaged, and at the latest <b><i>at the time of the transfer</i></b> .
Comment: This change in terminology does not affect data subjects’ rights in a significant way.	

Amendment 1238 Proposal for a regulation Article 14 – paragraph 4 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another recipient is envisaged, and at the latest when the data are first disclosed.	(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another recipient is envisaged, and at the latest when the data are first disclosed; <b><i>or, if the data shall be used for communication with the person concerned, at the latest at the time of the first communication to that person</i></b> .



Comment: This amendment provides useful clarification

**Amendment 1239 Proposal for a regulation  
Article 14 – paragraph 4 – point b**

<i>Commission Proposal</i>	<i>Amendment</i>
(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another recipient is envisaged, and at the latest when the data are first disclosed.	(b) where the personal data are not collected from the data subject, at the time of the recording or within a reasonable period after the collection, having regard to the specific circumstances in which the data are collected or otherwise processed, or, if a disclosure to another recipient is envisaged, and at the latest when the data are first disclosed, <b><i>or, if the data shall be used for communication with the person concerned, at the latest at the time of the first communication to that person.</i></b>

Comment: This amendment provides useful clarification

**Amendment 1240 Proposal for a regulation  
Article 14 – paragraph 4 – subparagraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(ba) within a reasonable period after the data subject has reached the age of 18.</i></b>

Comment: This amendment takes into account specific situation of minors.

**Amendment 1241 Proposal for a regulation  
Article 14 – paragraph 4 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>4a. Article 14 shall not apply where:</i></b>  <b><i>(a) the data subject already has the information;</i></b>  <b><i>(b) the provision of such information proves impossible or would involve a disproportionate effort;</i></b>  <b><i>(c) obtaining or disclosure is found in Union or Member State law;</i></b>  <b><i>(d) where the data originate from publicly available sources;</i></b>  <b><i>(e) where the data must remain confidential in accordance with a legal provision or on account of the overriding justified interests of a third party.</i></b>

Comment: This amendment (in particular points b and d) limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. The term “publicly available source” is not clear and creates a possibility of abuse. It would cover, as currently drafted, data illegally made public after a data breach.

**Amendment 1242 Proposal for a regulation  
Article 14 – paragraph 5**

<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>6. Paragraphs 1 to 4 shall not apply, where:</b></p> <p><b>(a) the data subject has already the information referred to in paragraphs 1, 2 and 3; or</b></p> <p><b>(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or</b></p> <p><b>(c) the data are not collected from the data subject and recording or disclosure is expressly laid down by law; or</b></p> <p><b>(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of others, as defined in Union law or Member State law in accordance with Article 21.</b></p>	<p><i>deleted</i></p>

Comment: related to Amendment 1241 (see justification above)

**Amendment 1242 Proposal for a regulation  
Article 14 – paragraph 5 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
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<p>5. Paragraphs 1 <i>to 4</i> shall not apply, <i>where</i>:</p> <p>(a) <i>the data subject has already the information referred to in paragraphs 1, 2 and 3; or</i></p> <p>(b) <i>the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or</i></p> <p>(c) <i>the data are not collected from the data subject and recording or disclosure is expressly laid down by law; or</i></p> <p>(d) <i>the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of others, as defined in Union law or Member State law in accordance with Article 21.</i></p>	<p>5. Paragraphs 1 <i>and 2</i> shall not apply <i>to natural persons who process personal data without a commercial interest.</i></p>
<p>Comment: This amendment limits very important safeguard: obtaining full information about the source from which the personal data originate is essential for the data subject to be able to control the data flows and react to possible misuses. Making this safeguard conditional upon whether data controller is a natural person who processes personal data without a commercial interest will cause a lot of legal uncertainty and decrease the general level of protection.</p>	

<p><b>Amendment 1244 Proposal for a regulation Article 14 – paragraph 5 – point a</b></p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>(a) the data subject has already the information referred to in paragraphs 1, 2 and 3; or</p>	<p>(a) the data subject has already <i>or can be reasonably expected to know</i> the information referred to in paragraphs 1, 2 and 3; or</p>
<p>Comment: This amendment introduces a subjective criterion (i.e. data controller’s own expectation of the knowledge possessed by the data subject) to determine a fundamental obligation to provide information to the data subject. This cannot be accepted.</p>	

<p><b>Amendment 1245 Proposal for a regulation Article 14 – paragraph 5 – point b</b></p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>(b) <i>the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or</i></p>	<p><i>deleted</i></p>

Comment: This amendment removes the broadest and most dangerous exemption from a fundamental obligation to provide information to the data subject. Very good proposal.

Amendment 1246 Proposal for a regulation Article 14 – paragraph 5 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
((b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or	(b) the data <b><i>meant to serve solely the purposes of Article 83</i></b> , are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or
Comment: This amendment is meant to limit the broadest and most dangerous exemption from a fundamental obligation to provide information to the data subject.	

Amendment 1247 Proposal for a regulation Article 14 – paragraph 5 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort; or	(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort <b><i>and the controller has published the information for anyone to retrieve</i></b> ; or
Comment: This amendment offers some relief in the situation, when data controller decides that provision of information to the data subject proves impossible or would involve a disproportionate effort. But it does not solve the problem.	

Amendment 1248 Proposal for a regulation Article 14 – paragraph 5 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate <b><i>effort</i></b> ; or	(b) the data are not collected from the data subject <b><i>or the data processes do not allow the verification of identity</i></b> and the provision of such information proves impossible or would involve a disproportionate <b><i>effort such as by generating excessive administrative burden, especially when the processing is carried out by a SME</i></b> ; or
Comment: This amendment adds yet another reason for data controller to decide that provision of information to the data subject proves impossible or would involve a disproportionate effort. Identification of the data subject should not be treated as a precondition to provide information. This obligation can also be fulfilled with regard to pseudonimised data or individuals that can only be singled out.	

Amendment 1249 Proposal for a regulation Article 14 – paragraph 5 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the data are not collected from the data subject and the provision of such information proves impossible or would involve a disproportionate effort;	(b) the data are not collected from the data subject and the provision of such information proves impossible – <b><i>for example because the data have been rendered pseudonymous</i></b> – or would involve a disproportionate effort;

Comment: Identification of the data subject should not be treated as a precondition to provide information. This obligation can also be fulfilled with regard to pseudonimised data or individuals that can only be singled out. Only if in particular situations this turns out to be impossible or would involve a disproportionate effort, this provision can be used. The wording used also suggests the author did not understand the terminology. Data which have been pseudonymised, but not anonymised are, by definition, not impossible to link to a data subject.

Amendment 1250 Proposal for a regulation Article 14 – paragraph 5 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) <b><i>the data are not collected from the data subject and</i></b> recording or disclosure is expressly laid down by law; or	(c) recording or disclosure is expressly laid down by law; or
Comment: This amendment aims at extending the exception, which is already broad. In principle, the data subject should be aware that his/her data are recorded or disclosed to fulfil a legal obligation.	

Amendment 1251 Proposal for a regulation Article 14 – paragraph 5 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) the data are not collected from the data subject and <b><i>recording</i></b> or disclosure is expressly laid down by law; or	(c) the data are not collected from the data subject and <b><i>obtaining</i></b> or disclosure is expressly laid down by law <b><i>to which the controller is subject, which provides appropriate measures to protect the data subject's legitimate interests, considering the risks represented by the processing and the nature of the personal data;</i></b> or
Comment: This amendment offers additional safeguards in the situation, when obtaining or disclosure of data is expressly laid down by law and the obligation to provide information to the data subject is exempted.	

Amendment 1252 Proposal for a regulation Article 14 – paragraph 5 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of others, <b><i>as defined in Union law or Member State law in accordance with Article 21.</i></b>	(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of others.
Comment: This article removes important safeguard and opens the possibility to interpret “rights and freedoms of others” in a much broader way, thus extending the exemption from the obligation to provide information.	

Amendment 1253 Proposal for a regulation Article 14 – paragraph 5 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) <b><i>the data are not collected from the data subject and</i></b> the provision of such information will impair the rights and freedoms of others, as defined in Union law or Member State law <b><i>in accordance with Article 21.</i></b>	(d) the provision of such information will impair the rights and freedoms of others, as defined in Union law or Member State law; <b><i>or</i></b>
Comment: This amendment does not affect data subjects' rights in a significant way.	

Amendment 1254 Proposal for a regulation Article 14 – paragraph 5 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of <b><i>others</i></b> , as defined in Union law or Member State law in accordance with Article 21.	(d) the data are not collected from the data subject and the provision of such information will impair the rights and freedoms of <b><i>other natural persons</i></b> , as defined in Union law or Member State law in accordance with Article 21.
Comment: This amendment provides useful clarification.	

Amendment 1255 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(da) the data are processed by, are entrusted or become known to a person subject to legal professional privilege, professional secrecy regulated by the Member State, a statutory obligation of secrecy in the exercise of his profession or any like obligation not to reveal such data.</i></b>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1256 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(da) the data are processed for historical, statistical or scientific purposes subject to the conditions and safeguards referred to in Article 83 and the provision of such information proves impossible or would involve a disproportionate effort.</i></b>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1257 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data are processed for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83 and the provision of such information proves impossible or would involve a disproportionate effort.</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1258 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the information or part of the information referred to in Article 14(1) to (3) is likely to serious impair the ensuring of network and information security. From the moment that the information is not anymore likely to serious impair the achievement of network and information security, the data subject shall be informed without delay.</i>
Comment: It is very difficult to imagine that providing basic information about the data being processed may impair network and information security. This amendment may open a lot of interpretative doubts and encourage data controllers to refuse information.	

Amendment 1259 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data are collected by a natural person bound by professional or other equivalent secrecy obligations in the pursuit of their professional activities; or</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1260 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data are processed by, are entrusted or become known to a person subject to legal professional privilege, professional secrecy regulated by the Member State, a statutory obligation of secrecy in the exercise of his profession or any like obligation not to reveal such data.</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1261 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data consists of information in respect of which a claim to legal professional privilege, or equivalent professional secrecy provisions could be maintained under national law or rules established by national competent bodies.</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1262 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>((da) the data originates from publicly available sources; or</i>
Comment: The term “publicly available sources” is unclear and may lead to potential abuses. Also, there is no good reason why data obtained from such sources should be exempted from information obligation. Data subject should still have the right to control the legitimacy of further data processing and to be aware of the legitimacy of the original making available of the information – otherwise illegal data leaks could become a business tool. Without such information it will be extremely difficult for data subjects to exercise their rights, such as the right to correct data.	

Amendment 1263 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data are collected for the purposes of historical, statistical or scientific research, in accordance with the provisions of Article 83, and the requirement to provide information laid down in paragraphs 1 to 4 proves impossible to comply with or would require disproportionate efforts in the light of the imperatives of the research in question, in particular in terms of the quantity of data processed and the public interest being pursued.</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1264 Proposal for a regulation Article 14 – paragraph 5 – point d b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(db) the data consists of information in connection with which a claim to professional secrecy provisions, such as legal professional privilege, could be established under national law</i>



	<i>or rules established by competent authorities.</i>
Comment: This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1265 Proposal for a regulation Article 14 – paragraph 5 – point d b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(db) the right to media freedom requires the protection of information sources.</i>
Comment: - This amendment does not affect data subjects' rights in a significant way and can be justified. However, the drafting of this provision should be made more precise.	

Amendment 1266 Proposal for a regulation Article 14 – paragraph 5 – point d b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(db) the data must be kept secret in accordance with legislation or by virtue of their nature, particularly because of a legitimate overriding interest of a third party.</i>
Comment: - This amendment does not affect data subjects' rights in a significant way and can be justified. However, it seems to repeat the content of other provisions.	

Amendment 1267 Proposal for a regulation Article 14 – paragraph 5 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the data are processed for health, historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Articles 81 or 83 as appropriate, and the provision of such information proves impossible or would involve a disproportionate effort.</i>
Comment: - This amendment does not affect data subjects' rights in a significant way and can be justified.	

Amendment 1268 Proposal for a regulation Article 14 – paragraph 5 – point d c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(dc) the data are processed in the exercise of his profession by, or are entrusted or become known to, a person who is subject to an obligation of professional secrecy regulated by the State or to a statutory obligation of secrecy.</i>

Comment: - This amendment does not affect data subjects' rights in a significant way and can be justified.

<b>Amendment 1269 Proposal for a regulation Article 14 – paragraph 5 a (new)</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>5a. Points (c) and (d) of paragraph 5 shall not apply where the absence of the information impedes the data subject to exercise its rights to access, objection, correction or erasure.</i></b>
Comment: This amendment provides additional safeguards, which may limit threats posed by very broad exemptions from the obligation to provide information to data subjects. Data subject rights are indispensable for empowering data subjects to take the protection of their data into their own hands and enforce their rights against controllers. They are one of the main levers to hold controllers accountable. For this reason, the rights to information, access, rectification, deletion, and data portability should be strengthened to allow users to understand what happens to their data and to exercise control over it.	

<b>Amendment 1270 Proposal for a regulation Article 14 – paragraph 6</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
<b><i>6. In the case referred to in point (b) of paragraph 5, the controller shall provide appropriate measures to protect the data subject's legitimate interests.</i></b>	<b><i>deleted</i></b>
Comment: This amendment removes very important safeguard, which is meant to ensure certain balance between data subject's legitimate interests and the interests of data controllers. Without it Article 14, par. 5 point (b) will open a very dangerous loophole and an easy way to avoid information obligations.	

<b>Amendment 1271 Proposal for a regulation Article 14 – paragraph 6</b>	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
<b><i>6. In the case referred to in point (b) of paragraph 5, the controller shall provide appropriate measures to protect the data subject's legitimate interests.</i></b>	<b><i>6. Paragraph 3 shall not apply where:</i>  <b><i>(a) it proves impossible to provide the information or providing it would involve a disproportionate effort;</i></b> <b><i>or</i></b>  <b><i>(b) the data subject already has the information referred to in paragraph 1.</i></b></b>
Comment: - This amendment (in connection with other, related amendments) does not affect data subjects' rights in a significant way.	

Amendment 1272 Proposal for a regulation Article 14 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. In the case referred to in point (b) of paragraph 5, the controller shall <b>provide appropriate measures</b> to protect the data subject's legitimate interests.	6. In the case referred to in point (b) of paragraph 5, the controller shall <b>undertake the necessary actions and protections in their activities</b> to protect the data subject's legitimate interests.
Comment: This amendment aims at lowering the standard of effort expected from data controller (“undertaking actions” refers to a lower standard than “providing measures” since the sole action, regardless of its result, may be deemed sufficient), thus threatening the safeguard, which is meant to ensure certain balance between data subject’s legitimate interests and the interests of data controllers.	

Amendment 1273 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
7. <i>The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

Amendment 1274 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
7. <i>The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate</i>	<i>deleted</i>

<i>measures for micro, small and medium-sized-enterprises.</i>	
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

Amendment 1275 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

Amendment 1276 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

Protection Board.

**Amendment 1277 Proposal for a regulation  
Article 14 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

**Amendment 1278 Proposal for a regulation  
Article 14 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.	

**Amendment 1279 Proposal for a regulation  
Article 14 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
<p>Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.</p>	

**Amendment 1280 Proposal for a regulation  
Article 14 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	<i>deleted</i>
<p>Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by the Commission acting independently from other bodies, in particular without the European Data Protection Board.</p>	

Amendment 1281 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
7. <i>The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>	7. <i>Paragraph 4 shall not apply where:</i>  <i>(a) collection or disclosure of the data is expressly laid down by law; or</i>  <i>(b) the provision of such information will impair the rights and freedoms of others, as defined in Union law or Member State law in accordance with Article 21;</i>  <i>(c) it proves impossible to provide the information or providing it would involve a disproportionate effort.</i>
Comment: - This amendment does not affect data subjects' rights in a significant way.	

Amendment 1282 Proposal for a regulation Article 14 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.	7. The Commission shall be empowered to adopt, <b><i>after requesting an opinion of the European Data Protection Board</i></b> , delegated acts in accordance with Article 86 for the purpose of further specifying the criteria for categories of recipients referred to in point (f) of paragraph 1, the requirements for the notice of potential access referred to in point (g) of paragraph 1, the criteria for the further information necessary referred to in point (h) of paragraph 1 for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in point (b) of paragraph 5. In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.
Comment: This amendment diminishes the risk of arbitrary decisions being made by the European Commission with regard to determining key criteria, conditions and categories mentioned in this provision.	

Amendment 1283 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
8. <i>The Commission may lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations</i>	<i>deleted</i>

<i>where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	
Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional. The development of these forms should be carried out with input from the relevant stakeholder, including designers and behavioural economists.	

Amendment 1284 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>8. The Commission may lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	<i>deleted</i>
Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional. The development of these forms should be carried out with input from the relevant stakeholder, including designers and behavioural economists.	

Amendment 1285 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>8. The Commission may lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	<i>deleted</i>
Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional. The development of these forms should be carried out with input from the relevant stakeholder, including designers and behavioural economists.	

Amendment 1286 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
8. The Commission <i>may lay down</i> standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. <i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	8. The Commission <i>shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying down</i> standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary.



Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional. The development of these forms should be carried out with input from the relevant stakeholders, including designers and behavioural economists.

Amendment 1287 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
8. <i>The Commission may lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	8. <i>In the cases referred to in paragraphs 6(a) and 7(c), the controller shall take appropriate measures to protect the data subject's legitimate interests.</i>
Comment: - This amendment does not affect data subjects' rights in a significant way	

Amendment 1288 Proposal for a regulation Article 14 – paragraph 8	
<i>Commission Proposal</i>	<i>Amendment</i>
8. The Commission <i>may</i> lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	8. The Commission <i>shall</i> lay down standard forms for providing the information referred to in paragraphs 1 to 3, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary <i>as well as the needs of the relevant stakeholders</i> . Those implementing acts shall be adopted, <i>after requesting an opinion of the European Protection Board</i> , in accordance with the examination procedure referred to in Article 87(2).
Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional. The development of these forms should be carried out with input from the relevant stakeholders and from the European Data Protection Board.	

Amendment 1289 Proposal for a regulation Article 14 – paragraph 8 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>8a. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of regulating the requirements applicable to information referred to in paragraph 1(g), the criteria for the provision of further information referred to in paragraph 1(h) for specific sectors and situations, and the conditions and appropriate safeguards for the exceptions laid down in paragraphs 6(a) and 7(c). In doing so, the Commission shall take the appropriate measures for micro, small and medium-sized-enterprises.</i>
Comment: Key criteria, conditions and categories mentioned in this provision should not be determined by	

the Commission acting independently from other bodies, in particular without the European Data Protection Board.

**Amendment 1290 Proposal for a regulation  
Article 14 – paragraph 8 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>8b. The Commission may lay down standard forms for providing the information referred to in paragraphs 3 and 4, taking into account the specific characteristics and needs of various sectors and data processing situations where necessary. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</i></b>

Comment: In the interest of clarity and uniformity, the elaboration of standard format should be mandatory instead of optional.

**Amendment 1291 (Nils Torvalds )  
Article 15 – paragraph 1 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller <b><i>at any time</i></b> , on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:	1. The data subject shall have the right to obtain from the controller, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:

Comment: This doesn't seem to change the meaning or strength of the article.

**Amendment 1292 (Jens Rohde, Adina-Ioana Vălean)  
Article 15 – paragraph 1 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>Where such personal data are being processed</i></b> , the controller shall provide the following information:	1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>With the exception of data being used for historical, statistical or scientific research purposes</i></b> the controller shall provide the following information <b><i>when person data are being processed</i></b> :

Comment: Exceptions for the processing of personal data for historical, statistical or scientific research are addressed in Article 83 of the Regulation. Adding the exception here would greatly undermine the data subject's right to access.

Amendment 1293 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 15 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:	1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>If the controller is processing a large number of files relating to the data subject, it may ask the data subject to specify in the necessary detail, before the information is supplied, which file or files, or what particular fields of activity, are covered by the data subject's request.</i></b> Where such personal data are being processed, the controller shall provide the following information:
Comment: This addition could unnecessarily complicate the right to access, potentially creating barriers for data subjects to exercise the right of access. Certain cases, particularly if the controller is processing large amounts of data, can be determined on a case by case basis, however the baseline standard of the Regulation should ensure legal clarity (for the controller and the data subject).	

Amendment 1294 (Stanimir Ilchev)  
Proposal for a regulation Article 15 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from <b><i>the</i></b> controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>Where such personal data are being processed, the controller shall provide</i></b> the following information:	1. The data subject shall have the right to obtain from <b><i>every</i></b> controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>The confirmation shall, at the minimum, include</i></b> the following information:
Comment: This is a helpful clarification.	

Amendment 1295 (Dimitrios Droutsas)  
Article 15 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. <b><i>Where such personal data are being processed, the controller shall provide</i></b> the following information:	1. The data subject shall have the right to obtain from the controller at any time, on request, <b><i>in clear and plain language,</i></b> confirmation as to whether or not personal data relating to the data subject are being processed, <b><i>and as to the existence of profiling and measures based on profiling in respect of the data subject</i></b> the controller shall provide the following information:

Comment: As information handed over to data subjects might not always be easily understandable, it is key to ensure that they shall be able to understand the information. The addition of the effects on profiling are also important as these measures have significant impacts on the data subject's rights

Amendment 1296 (Axel Voss, Seán Kelly, Wim van de Camp, Kinga Gál, Lara Comi, Renate Sommer, Monika Hohlmeier, Hubert Pirker, Véronique Mathieu Houillon)  
Article 15 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller <b>at any time</b> , on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:	1. <b>Only</b> the data subject shall have the right to obtain from the controller on request, confirmation as to whether or not personal data relating to the data subject are being processed <b>unless this request is manifestly excessive according to 12 (4)</b> . Where such personal data are being processed, the controller shall - <b>so far as the data subject has not received</b> - provide the following information:

Comment: Art 12(4) suggests that the data subject pay a fee if the request is “manifestly excessive”, and not a refusal of the request. It is also assumed that the data subject making the request shall be the sole recipient of the information requested. The last part of the amendment also does not make sense from a linguistic perspective. One assumes it meant to say “so far as the data subject has not already received it”.

Amendment 1297 (Sarah Ludford)  
Article 15 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. <b>The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information:</b>	1. Subject <b>to Article 12(4)</b> , the data subject <b>shall have the right to obtain the following information from</b> the controller:

Comment: This amendment significantly weakens the right of the data subject to exercise their right to access. There is no added value in restating existing rules in the Regulation (Art 12(4)).

Amendment 1298 (Birgit Sippel, Josef Weidenholzer)  
Article 15 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>1a. There shall be no right to obtain information when the data was collected by a natural person bound by professional or other equivalent secrecy obligations in the pursuit of their professional activities.</b>

Comment: There are already safeguards that exist to safeguard professional or other equivalent secrecy obligations in Recital 127 – there is no added value in referencing it here.

**Amendment 1299 (Sarah Ludford)**  
**Article 15 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b><i>1a. Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless:</i></b></p> <p><b><i>(a) the other individual has consented to the disclosure of the information to the person making the request; or</i></b></p> <p><b><i>(b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.</i></b></p>

Comment: The right of access for the data subject means that the information and/or data received will relate only to the data subject who has made the request. This addition obscures legal clarity.

**Amendment 1300 (Sarah Ludford)**  
**Article 15 – paragraph 1 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b><i>1b. In paragraph (1) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that paragraph is not to be construed as excusing a data controller from communicating so much of the information sought by the request as can be communicated without disclosing the identity of the other individual concerned, whether by the omission of names or other identifying particulars or otherwise.</i></b></p> <p><b><i>In determining for the purposes of this paragraph whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual concerned, regard shall be had, in particular, to:</i></b></p> <p><b><i>(a) any duty of confidentiality owed to the other individual;</i></b></p> <p><b><i>(b) any steps taken by the data controller with a view to seeking the consent of the other individual;</i></b></p>

	<p>(c) <i>whether the other individual is capable of giving consent; and</i></p> <p>(d) <i>any express refusal of consent by the other individual.</i></p>
<p>Comment: The right of access for the data subject means that the information received will relate only to the data subject who has made the request. This addition obscures legal clarity.</p>	

<p>Amendment 1301 (Josef Weidenholzer, Birgit Sippel) Article 15 – paragraph 1 – point a</p>	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) the purposes of the processing;	(a) the purposes of the processing <i>for each category of personal data and the legal basis for the processing operation;</i>
<p>Comment: We dismiss the framing of “categories” of data, as current experience shows that it would create a loophole which would allow controllers to use meaningless categories which would undermine the right of access for the data subject.</p>	

<p>Amendment 1302 (Josef Weidenholzer) Article 15 – paragraph 1 – point b</p>	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) <i>the</i> categories of personal data concerned;	(b) <i>each</i> categories of personal data concerned;
<p>Comment: We dismiss the framing of “categories” of recipients, as it would create a loophole which would allow controllers to use meaningless categories such as “carefully selected third parties”. Amendment 1304 permits a better solution and therefore this amendment should be rejected.</p>	

<p>Amendment 1303 (Claude Moraes, Glenis Willmott) Article 15 – paragraph 1 – point c</p>	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) the recipients or categories of recipients to whom the personal data are to be or have been disclosed, <i>in particular</i> to recipients in third countries;	(c) the recipients or categories of recipients to whom the personal data are to be or have been disclosed, <i>including</i> to recipients in third countries;
<p>Comment: We dismiss the framing of “categories” of recipients, as it would create a loophole which would allow controllers to use meaningless categories such as “carefully selected third parties”. Amendment 1304 permits a better solution and therefore this amendment should be rejected.</p>	

<p>Amendment 1304 (Dimitrios Droutsas) Article 15 – paragraph 1 – point c</p>	
<i>Commission Proposal</i>	<i>Amendment</i>

(c) the recipients <i>or categories of recipients</i> to whom the personal data are to be or have been disclosed, <b><i>in particular</i></b> to recipients in third countries;	(c) the recipients to whom the personal data are to be or have been disclosed, <b><i>including</i></b> to recipients in third countries;
Comment: Clarifying that the recipients, and not just the categories of recipients to whom the personal data have been disclosed strengthens the right to access for the data subject.	

Amendment 1305 (Josef Weidenholzer) Article 15 – paragraph 1 – point c	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) <b><i>the</i></b> recipients <i>or</i> categories of recipients to whom the personal data are to be or have been disclosed, <b><i>in particular to recipients in third countries</i></b> ;	(c) <b><i>if known the individual</i></b> recipients <b><i>otherwise the</i></b> categories of recipients to whom the personal data are to be or have been disclosed;
Comment: We oppose the framing of “categories” of recipients, as it would create a loophole which would allow controllers to use meaningless categories such as “carefully selected third parties”.	

Amendment 1306 (Stanimir Ilchev) Article 15 – paragraph 1 – point c	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) the recipients <i>or categories of recipients to whom</i> the personal data <b><i>are to be or have been disclosed, in particular to recipients in third countries</i></b> ;	(c) the recipients <b><i>of</i></b> the personal data <b><i>pursuant to Article 14(1)(f), if the direct controller provides the confirmation. If the confirmation is provided by the indirect controller, the recipients shall receive it pursuant to Article 14(2)(b)</i></b> ;
Comment: We oppose the framing of “categories” of recipients, both in this article and in Article 14(1)(f) as it would create a loophole which would allow controllers to use meaningless categories such as “carefully selected third parties”.	

Amendment 1307 (Sarah Ludford) Article 15 – paragraph 1 – point d	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(d) <b><i>the period for which the personal data will be stored</i></b> ;	<b><i>deleted</i></b>
Comment: Data subjects must be informed about what personal data will be stored and for how long	

Amendment 1308 (Alexander Alvaro)  
Article 15 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) the period for which the personal data will be stored;	(d) the <i>estimated</i> period for which the personal data will be stored;
Comment: Data subjects must be informed as to how long their data will be retained by controllers.	

Amendment 1309 (Adina-Ioana Vălean, Jens Rohde)  
Article 15 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) the period for which the personal data will be stored;	(d) the <i>estimated</i> period for which the personal data will be stored;
Comment: Data subjects must be informed as to how long their data will be retained by controllers.	

Amendment 1310 (Josef Weidenholzer)  
Article 15 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) the period for which <i>the</i> personal data will be stored;	(d) the period for which <i>each category of</i> personal data will be stored;
Comment: We dismiss the framing of “categories” of data, as it would create a loophole which would allow controllers to use meaningless categories and undermine the rights of the data subject.	

Amendment 1311 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Kinga Gál, Lara Comi, Renate Sommer, Monika Hohlmeier, Salvatore Iacolino)  
Article 15 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) the period for which the personal data will be stored;	(d) <i>if known</i> the period for which the personal data will be stored;
Comment: Data subjects must be informed as to how long their data will be retained by controllers.	

Amendment 1312 (Monika Hohlmeier)  
Article 15 – paragraph 1 – point f

<i>Commission Proposal</i>	<i>Amendment</i>
(f) the right to lodge a complaint to <i>the</i> supervisory authority and the contact details of the supervisory authority;	(f) the right to lodge a complaint to supervisory authorities;



Comment: Many citizens do not always have the information or knowledge about who the competent data protection authority may be in their jurisdiction, therefore this information is useful, and an important aspect of the right to access.

**Amendment 1313 (Adina-Ioana Vălean, Jens Rohde)**

**Article 15 – paragraph 1 – point h**

<i>Commission Proposal</i>	<i>Amendment</i>
(h) the significance and envisaged consequences of such processing, <b><i>at least in the case of measures referred to in Article 20.</i></b>	(h) the significance and envisaged consequences of such processing.

Comment: We welcome the removal of the phrasing “at least in the case” as this would be put a restriction on the use of profiling.

**Amendment 1314 (Dimitrios Droutsas)**

**Article 15 – paragraph 1 – point h**

<i>Commission Proposal</i>	<i>Amendment</i>
(h) the <b><i>significance and</i></b> envisaged consequences of <b><i>such processing, at least in the case</i></b> of measures referred to in Article 20.	(h) the envisaged consequences of <b><i>profiling and</i></b> of measures <b><i>based on profiling.</i></b>

Comment: This amendment eliminates all other articles from consideration. Referencing Article 20 is welcome however it should not be the only consideration here.

**Amendment 1315 (Louis Michel)**

**Article 15 – paragraph 1 – point h**

<i>Commission Proposal</i>	<i>Amendment</i>
(h) <b><i>the significance and envisaged consequences of such processing, at least in the case of measures referred to in Article 20.</i></b>	(h) <b><i>in the case of decisions referred to in Article 20, knowledge of the logic involved in any automatic data processing, the significance and envisaged consequences of such processing.</i></b>

Comment: The proposed amendment strengthen data subjects’ right of access in relation to measures based on profiling, similar to the provisions in the current Directive 95/46/EC.

**Amendment 1316 (Sarah Ludford)**

**Article 15 – paragraph 1 – point h**

<i>Commission Proposal</i>	<i>Amendment</i>
(h) <b><i>the significance and envisaged consequences of such processing, at least in the case of measures referred to in Article 20.</i></b>	(h) <b><i>where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is</i></b>

	<i>likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.</i>
Comment: This addition would undermine the rights of the data subject and legal clarity by allowing controllers to determine the affect of profiling on the data subject.	

<b>Amendment 1317 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)</b> Article 15 – paragraph 1 – point h	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(h) the <b><i>significance and</i></b> envisaged consequences of such processing, <b><i>at least</i></b> in the case of measures referred to in Article 20.	(h) the envisaged consequences of such processing in the case of measures referred to in Article 20.
Comment: This would undermine the data subjects’ right of access in relation to measures based on profiling.	

<b>Amendment 1318 (Alexander Alvaro)</b> Article 15 – paragraph 1 – point h a (new)	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ha) a proof of the lawfulness of processing.</i></b>
Comment: The processing of data should always be lawful – this amendment is therefore redundant.	

<b>Amendment 1319 (Claude Moraes, Glenis Willmott)</b> Article 15 – paragraph 1 – point h a (new)	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(ha) the trustee shall be able to exercise the right of access in case of death of the data subject. Except if the data subject asked specifically not to give access to some data.</i></b>
Comment: This is beyond our purview.	

<b>Amendment 1320 (Claude Moraes, Glenis Willmott)</b> Article 15 – paragraph 1 – point h b (new)	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
	<b><i>(hb) the trustee shall be able to exercise the right of rectification in case of death of the data subject. Except if the data subject asked specifically not to give access to some data.</i></b>

Comment: This is beyond our purview.

**Amendment 1321 (Dimitrios Droutsas)  
Article 15 – paragraph 1 – point h a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ha) intelligible information about the logic involved in any automated processing;</i>

Comment: It is helpful to link the principles that are in the Directive to the Regulation. However, this amendment does not add all that much practical value.

**Amendment 1322 (Dimitrios Droutsas)  
Article 15 – paragraph 1 – point h b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(hb) in the event of disclosure of personal data to a public authority as a result of a public authority request, confirmation of the fact that such a request has been made, information about whether or not the request has been fully or partly complied with and an overview of the data that were requested or disclosed.</i>

Comment: The data subject has a right to be informed about all processing and disclosure of their personal information.

**Amendment 1323 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 15 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</i>	<i>deleted</i>

Comment: The data subject has a right to be informed about all processing, whether completed or undergoing, of their personal information.

**Amendment 1324 (Axel Voss, Seán Kelly, Wim van de Camp, Kinga Gál, Renate Sommer, Monika Hohlmeier, Véronique Mathieu Houillon)  
Article 15 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
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<p><b>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</b></p>	<p><i>deleted</i></p>
<p>Comment: The data subject has a right to be informed about all processing, whether completed or undergoing, of their personal information.</p>	

<p>Amendment 1325 Article 15 – paragraph 2</p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic <b>form</b>, the information shall be provided in electronic form, unless otherwise requested by the data subject.</p>	<p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in <b>a freely-available electronic format</b>, the information shall be provided in electronic form <b>which enables the data subject to make subsequent use of it</b>, unless otherwise requested by the data subject.</p>
<p>Comment: Reinforcing the usability and use of freely-available (e.g. Open source and readable) format will further strengthen the rights of the data subject in this regard.</p>	

<p>Amendment 1326 (Jan Mulder) Article 15 – paragraph 2</p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. <b>Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</b></p>	<p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing.</p>
<p>Comment: Given the reality of ubiquitous technology, it will reduce the burden (financially) for the controller to give the information to the data subject in electronic format. Moreover, it also creates an opportunity for the data controller to provide the information in unusable formats like printed on paper – discouraging people from applying for their data. Furthermore, there is nothing prohibiting the controller from providing the information in another format if the data subject requests this.</p>	

Amendment 1327 (Alexander Alvaro) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject. <b><i>Without prejudice to Article 5c, the controller shall take all reasonable steps to verify the identity of a data subject requesting access to data.</i></b>
Comment: Insofar as necessary for protection of personal data, this would be assumed, in any event. This measure would need to be implemented in away which avoided new and unnecessary data collection.	

Amendment 1328 (Jan Mulder) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. <b><i>To verify the lawfulness of the processing</i></b> the data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.
Comment: This weakens the right to access as it would restrict the right of access to cases where the data subject is verifying lawfulness of processing.	

Amendment 1329 (Jan Philipp Albrecht) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic <b><i>form</i></b> , unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in <b><i>an electronic and interoperable format allowing unhindered further use by the data subject</i></b> , unless otherwise requested by the data subject.
Comment: Clarifying the usability and use of freely-available (e.g. Open source and readable) format will further strengthen the rights of the data subject in this regard.	

Amendment 1330 (Dimitrios Droutsas) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic <i>form</i> , unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in <i>an</i> electronic <i>format which allows for further use by the data subject</i> , unless otherwise requested by the data subject.
Comment: To strengthen the rights of the data subject, ensuring that they may have access to their information in an open-source, easily accessible format would provide greater clarity than what is proposed here.	

Amendment 1331 (Louis Michel) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. <i>Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</i>	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing.
Comment: Given the reality of ubiquitous technology, it will reduce the burden (financially) for the controller to give the information to the data subject in electronic format. There is nothing prohibiting the controller from providing the information in another format if the data subject requests this.	

Amendment 1332 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 15 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject. <i>This is without prejudice to the right of the controller to determine other form of handling requests for information specified in point 1 if it is justified by the necessity of verifying the identity of subject requesting such information.</i>
Comment: It is positive that the text makes it clear that further information can be collected/processed if <i>necessary</i> .	

Amendment 1333 (Cornelia Ernst, Marie-Christine Vergiat)  
Article 15 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic <b>form</b> , unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in <b>an electronic and structured format which follows an open standard, is freely available, interoperable, commonly used and allows for further use by the data subject</b> , unless otherwise requested by the data subject.
Comment: Clarifying the usability and use of freely-available (e.g. Open source and readable) format will further strengthen the rights of the data subject in this regard.	

Amendment 1334 (Josef Weidenholzer)  
Article 15 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller <b>communication of the</b> personal data undergoing processing. <b>Where the data subject makes the request in electronic form</b> , the information shall be provided in electronic form, unless otherwise requested by the data subject.	2. The data subject shall have the right to obtain from the controller <b>a full copy of all</b> personal data undergoing processing <b>and all relating data (e.g. meta data) as it is kept by the controller</b> . The information <b>and all data</b> shall be provided in <b>writing or in</b> electronic form, unless otherwise requested by the data subject.
Comment: This is a helpful clarification as it strengthens the right of access.	

Amendment 1335  
Article 15 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, <b>unless otherwise requested by the data subject</b> .	2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, <b>with the exception of data prejudicial to business confidentiality, which shall be provided in the form of a hard copy</b> .
Comment: It is not clear why certain categories of data should be provided in the form of hard copy. The right to access can be implemented on a case by case basis, however, the baseline standard should ensure legal clarity for the controller and the data subject. The amendment does not, however, say what it wanted to say – it is not “data prejudicial to business confidentiality” but “data which, if disclosed” would be	

prejudicial...”

Amendment 1336 (Sarah Ludford)  
Article 15 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. There shall be no right of access in accordance with paragraphs 1 and 2 when data within the meaning of Article 14(5)(da) are concerned, except if the data subject is empowered to lift the secrecy in question and acts accordingly.</i></b>

Comment: No comment – this is beyond our purview.

Amendment 1337  
Article 15 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in a freely-available electronic format, without hindrance from the controller from whom the personal data are withdrawn.</i></b>

Comment: This additional paragraph further strengthens the right to access for the data subject, but combining it with Article 18, the Right to data portability.

Amendment 1338 (Alexander Alvaro)  
Article 15 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. There shall be no right of access in accordance with paragraphs 1 and 2 when data within the meaning of Article 14(5)(da) are concerned, except if the data subject is empowered to lift the secrecy in question and acts accordingly.</i></b>

Comment: No comment – this is beyond our purview.



Amendment 1339 (Jens Rohde, Adina-Ioana Vălean) Article 15 – paragraph 2 a (new)

***Commission Proposal***

***Amendment***

***2a. The data subject shall have the right to obtain from the controller of the data source at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed to a research data base.***

Comment: This is beyond our purview and does not add anything significant to the Regulation.

Amendment 1340 (Adina-Ioana Vălean, Jens Rohde) Article 15 – paragraph 2 a (new)

***Commission Proposal***

***Amendment***

***2a. There shall be no right of access in accordance with paragraphs 1 and 2 when data within the meaning of Article 14(5) (da) are concerned, except if the data subject is empowered to lift the secrecy in question and acts accordingly.***

Comment: No comment – this is beyond our purview.

Amendment 1341 (Dimitrios Droutsas)  
Article 15 – paragraph 2 a (new)

***Commission Proposal***

***Amendment***

***2a. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data, where technically feasible and appropriate, and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.***

Comment: This additional paragraph further strengthens the right to access for the data subject, but combining it with Article 18, the Right to data portability.

**Amendment 1342**  
**Article 15 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. The data subject shall have the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which allows for further use.</i></b>
Comment: This additional paragraph further strengthens the right to access for the data subject, but combining it with Article 18, the Right to data portability.	

**Amendment 1343 (Jan Philipp Albrecht)**  
**Article 15 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. The right of access referred to in paragraphs 1 and 2 shall not apply where data pursuant to Article 14(5)(d) are affected.</i></b>
Comment: It is acceptable to add these specifications, but decisions on the right to access should be decided on a case by case basis.	

**Amendment 1344 (Sarah Ludford)**  
**Article 15 – paragraph 2 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2b. In complying with requests under this Article, data controllers shall take account of any relevant guidance.</i></b>
Comment: This undermines legal certainty, and there doesn't seem to be any meaning at all in this amendment.	

**Amendment 1345 (Véronique Mathieu Houillon, Axel Voss)**  
**Article 15 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Successors in right and title must be able to exercise the right of access to data in the event of the death of the data subject.</i></b>

Comment: This is beyond our purview.

Amendment 1346 (Marie-Christine Vergiat)  
Article 15 – paragraph 2 a (new)

*Commission Proposal*

*Amendment*

***2a. Unless a deceased person has explicitly stipulated otherwise, his or her successors in right and title or legal representative shall have the right to obtain from the controller acknowledgement of the death of the data subject and right of access to data in the event of the death of the data subject.***

Comment: this is beyond our purview.

Amendment 1347 (Alexander Alvaro)  
Article 15 – paragraph 2 b (new)

*Commission Proposal*

*Amendment*

***2b. Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, it is not obliged to comply with the request, unless:***

***(a) the other individual has explicitly consented to the disclosure of the information to the person making the request; or***

***(b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.***

Comment: The right of access for the data subject means that the information and/or data received will relate only to the data subject who has made the request. This addition obscures legal clarity.

Amendment 1348 (Adina-Ioana Vălean, Jens Rohde)  
Article 15 – paragraph 2 b (new)

*Commission Proposal*

*Amendment*

***2b. Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, it is not obliged to comply with the request, unless:***

***(a) the other individual has explicitly consented to***

	<p><i>the disclosure of the information to the person making the request; or</i></p> <p><i>(b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.</i></p>
<p>Comment: The right of access for the data subject means that the information and/or data received will relate only to the data subject who has made the request. This addition obscures legal clarity.</p>	

<b>Amendment 1349 (Dimitrios Droutsas)</b> <b>Article 15 – paragraph 2 b (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>2b. This Article shall be without prejudice to the obligation to delete data when no longer necessary under Article 5(1)(e).</b></p>
<p>Comment: this amendment further strengthens the right to access and deletion of the data subject.</p>	

<b>Amendment 1355 (Josef Weidenholzer)</b> <b>Article 15 – paragraph 3</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>3. The <i>Commission</i> shall be <i>empowered to adopt delegated acts in accordance with Article 86</i> for the <i>purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.</i></p>	<p><b>3. The first access request in each year shall be free of charge; a controller may charge a fee of 20 EUR for the response to additional access request, unless it was later found that the data was used illegally. The controller may charge its own cost for repetitive requests which are manifestly abusive.</b></p>
<p>Comment: This will undermine the rights of the data subject. If data are being used for a business purpose, subject access should be considered as a normal part of the service provision.</p>	

<b>Amendment 1356 (Ewald Stadler)</b> <b>Article 15 – paragraph 3</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>3. The <i>Commission</i> shall be <i>empowered to adopt delegated acts in accordance with Article 86</i> for the <i>purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.</i></p>	<p><b>3. Paragraphs 1 and 2 shall not apply where:</b></p> <p><b>(a) the data are stored only because they cannot be deleted on account of statutory, statutes-based or contractual periods for which they are required to be kept;</b></p> <p><b>(b) the data serve solely to provide a data backup or to monitor data protection, and providing</b></p>

	<p><i>information would involve a disproportionate effort;</i></p> <p><i>(c) the data must be kept secret in accordance with legislation or by virtue of their nature, particularly because of the overriding legal interest of a third party;</i></p> <p><i>(d) the data storage is necessary solely for purposes of academic or scientific research and providing information would involve a disproportionate effort;</i></p> <p><i>(e) the data have been derived from generally accessible sources and notification would be disproportionate on account of the large number of cases concerned;</i></p> <p><i>(f) notification would seriously jeopardise the commercial objectives or other fundamental rights and freedoms of the controller, unless the interest in notification outweighs the risk.</i></p>
<p>Comment: This is too prescriptive and will undermine the rights of the data subject.</p>	

<p>Amendment 1357 Article 15 – paragraph 3</p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>3. The <i>Commission</i> shall <i>be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.</i></p>	<p><i>3. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data which were provided by the data subject itself and that undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject. This right shall not restrict rights of others as trade secrets or intellectual property rights.</i></p> <p><i>This does not apply on the processing of anonymised and pseudonymised data, insofar as the data subject is not sufficiently identifiable on the basis of such data or identification would require the controller to undo the process of pseudonymisation.</i></p>
<p>Comment: While we support the strengthening of the data subject's right to access by including data portability (article 18), the exclusion of pseudonymised data undermines legal clarity. The addition of trade</p>	

secrets is also of no value here (since data portability has nothing to do with trade secrets). The drafting shows a lack of understanding of the concept of pseudonymisation and appears to confuse it with anonymisation.

**Amendment 1358 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Hubert Pirker, Kinga Gál, Lara Comi, Renate Sommer, Monika Hohlmeier)  
Article 15 – paragraph 3 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>3a. There shall be no right to information where:</b></p> <p><b>(a) data are involved which a person bound by professional secrecy is required to protect;</b></p> <p><b>(b) data must be kept secret in accordance with legislation or by virtue of their nature, particularly because of the overriding interest of a third party;</b></p> <p><b>(c) the public entity responsible has ascertained in relation to the entity responsible that disclosure of the data would endanger public safety or order;</b></p> <p><b>(d) data comprise trade secrets.</b></p>

Comment: This amendment undermines legal certainty and weakens the right of access for the data subject. Personal data per se cannot comprise a trade secret – the amendment is therefore incoherent.

**Amendment 1380, 1381, 1382, 1383  
Article 17 – title**

<i>Commission Proposal</i>	<i>Amendment</i>
Right to <i>be forgotten and to</i> erasure	<b>Right to erasure</b>

Comment: The title “right to be forgotten” is misleading and could lead to confusions with concepts from press law. As the essence of this right is the right to erasure, the title should be changed accordingly.

**Amendment 1384 (Alexander Alvaro)  
Article 17 – paragraph 1 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, <b><i>especially in relation to personal data which are made available by the data subject while he or she was a child</i></b> , where one of the following	1. The data subject shall have the right to obtain from the controller <b><i>and the processor</i></b> the erasure of personal data relating to them and the abstention from further dissemination of such data <b><i>and, where applicable, from third parties the erasure of any links to, or copy or replication of that personal</i></b>

grounds applies:	<i>data</i> , where one of the following grounds applies:
Comment: Within the context of the safeguards that this right can be applied without infringing free expression and other exceptions in Article 80, this clarification is helpful.	

Amendment 1385 (Axel Voss) Article 17 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of <b><i>such data, especially in relation to</i></b> personal data which are made available by the data subject <b><i>while he or she was a child</i></b> , where one of the following grounds applies:	1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of personal data which are made available by the data subject <b><i>itself</i></b> , where one of the following grounds applies:
Comment: Specification of when the data subject was a child would help clarify uses of this right, but it is not necessary. A data subject is not an inanimate object and therefore cannot be referred to as “itself”.	

Amendment 1386 Article 17 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:	1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, <b><i>unless the data controller is a public authority or an entity commissioned by the authority or otherwise acting on the behalf of an authority for the performance of the commission. The data subject shall have the right</i></b> especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:
Comment: There are already exceptions for the right to erasure outlined in Art17- paragraph 3(d).	

Amendment 1387 (Nils Torvalds)  
Article 17 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:	1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, <b><i>unless the data is kept by competent authorities or other bodies in a legal register required by national or Union legislation,</i></b> especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:
Comment: There are already exceptions for the right to erasure outlined in Art17- paragraph 3(d).	

Amendment 1388 (Louis Michel)  
Article 17 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, <b><i>especially in relation to personal data which are made available by the data subject while he or she was a child, where</i></b> one of the following grounds applies:	1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data. <b><i>There is no other legal ground for processing than the data subject's consent and</i></b> one of the following grounds applies:
Comment: This formulation doesn't make any sense – the legal grounds for processing are laid out in Article 6.	

Amendment 1389  
Article 17 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to <b><i>obtain</i></b> from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, <b><i>especially in relation to personal data which are made available by the data subject while he or she was a child,</i></b> where one of the following grounds applies:	1. The data subject shall have the right to <b><i>request</i></b> from the controller, <b><i>and pursue,</i></b> the erasure of personal data relating to them and the abstention from further dissemination of such data, where one of the following grounds applies:
Comment: This significantly weakens the right to erasure of the data subject. A right to request makes no legal sense and the use of the words “to pursue” here makes no linguistic sense	



Amendment 1390 (Sarah Ludford)  
Article 17 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them <b>and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child</b> , where one of the following grounds applies:	1. The data subject shall have the right to obtain, <b>as appropriate</b> , from the controller the erasure of personal data relating to them where one of the following grounds applies:
Comment: This undermines legal certainty and weakens the data subject's right to erasure. The addition of the words “as appropriate” adds no meaning whatsoever, but does add confusion.	

Amendment 1391 (Alexander Alvaro)  
Article 17 – paragraph 1 – point a

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;	(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed <b>and are not required to pursue legal claims or when the legally mandatory minimum retention period has expired</b> ;
Comment: This is prescriptive and could undermine legal clarity as it is not clear what retention period this may be referring to. This exception is also already stated in section 3(d). Data which are required to pursue legal claims are necessary and therefore the additional wording adds no meaning.	

Amendment 1392 (Axel Voss)  
Article 17 – paragraph 1 – point a

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;	(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed <b>and the legally mandatory minimum retention period has expired</b> ;
Comment: This is prescriptive and could undermine legal clarity as it is not clear what retention period this may be referring to. This exception is also already stated in section 3(d). Data required for legal purposes are necessary within the purposes of the original data collection.	

Amendment 1393 (Adina-Ioana Vălean, Jens Rohde)  
Article 17 – paragraph 1 – point a

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;	(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed <b>and are not required to pursue legal claims or when the legally mandatory minimum retention period has expired;</b>
Comment: This is prescriptive and could undermine legal clarity as it is not clear what retention period this may be referring to. This exception is also already stated in section 3(d). Data required for legal purposes are necessary within the purposes of the original data collection	

Amendment 1394 (Jens Rohde, Adina-Ioana Vălean)  
Article 17 – paragraph 1 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;	(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the <b>retention</b> storage period consented to has expired, and where there is no other legal ground for the processing <b>or storage</b> of the data;
Comment: There is no additional value in adding “retention”, and the wording is unclear. As storage is processing, it suggests that the drafters are not fully au fait with the legal context.	

Amendment 1395 (Louis Michel)  
Article 17 – paragraph 1 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), <b>or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;</b>	(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1);
Comment: The data subject's rights are weakened by removing the additional grounds on which the data subject can invoke the right to erasure.	

Amendment 1396 (Louis Michel)  
Article 17 – paragraph 1 – point b a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) when the storage period consented to has expired;</i>
Comment: It is not clear why (ba) should not be in section 1(b) as proposed by the Commission. To ensure legal clarity and a strong right to erasure, 1(b) should remain as is.	

Amendment 1397 (Louis Michel)  
Article 17 – paragraph 1 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) the data subject <i>objects</i> to the processing of personal data pursuant to Article 19;	(c) the data subject <i>has successfully objected</i> to the processing of personal data pursuant to Article 19;
Comment: This amendment undermines legal certainty for controllers, as it is not clear what “successfully objected” would entail.	

Amendment 1398  
Article 17 – paragraph 1 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) the data subject <i>objects</i> to the processing of personal data pursuant to Article 19;	(c) the data subject <i>has effectively objected</i> to the processing of personal data pursuant to Article 19;
Comment: This amendment undermines legal certainty for controllers, as it is not clear what “effectively objected” would entail.	

Amendment 1399 (Alexander Alvaro)  
Article 17 – paragraph 1 – point c a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) a court based in the Union has ruled as final and absolute that the data concerned must be erased;</i>
Comment: This addition would gravely undermine the right to erasure as the right to object would be dependent upon a court ruling, and not what is stated in Article 19.	

Amendment 1400 (Adina-Ioana Vălean, Jens Rohde)  
Article 17 – paragraph 1 – point c a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) a court based in the Union has ruled as final and absolute that the data concerned must be erased;</i>
Comment: This addition would gravely undermine the right to erasure as the right to object would be dependent upon a court ruling, and not what is stated in Article 19.	

Amendment 1401 (Sarah Ludford)  
Article 17 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(d) the processing of the data does not comply with this Regulation for other reasons.</i>	<i>deleted</i>
Comment: The data subject must be able to have their personal data erased by the controller if the processing does not comply with this Regulation	

Amendment 1402  
Article 17 – paragraph 1 – point d a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) there is no legal basis for the processing of the data other than the consent of the data subject.</i>
Comment: This could be misleading and undermine clarity, as there are 6 grounds for legal processing of personal data, as outlined in Article 6.	

Amendment 1403 (Alexander Alvaro)  
Article 17 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. The application of paragraph 1 shall be dependent upon the ability of the data controller to verify the identity of the data subject requesting the erasure.</i>
Comment: The intent of this amendment is sensible, but the wording fails to deliver. The intention appears to be that the controller should be able to verify a particular request to be valid, which seems reasonable, also for security purposes. The amendment, however stresses verification of the identity of the data subject and not the right of the data subject over the data, which may not require the verification of the identity of	

the data subject.

Amendment 1404  
Article 17 – paragraph 1 a (new)

***Commission Proposal***

***Amendment***

***1a. The heirs of a deceased person are entitled to have the data processor putting an end to the publication of their data.***

Comment: This is beyond our purview.

Amendment 1405 (Adina-Ioana Vălean, Jens Rohde)  
Article 17 – paragraph 1 a (new)

***Commission Proposal***

***Amendment***

***1a. The controller shall take all reasonable steps to communicate any erasure to each legal entity to whom the data have been disclosed.***

Comment: The right to erasure refers to the personal data concerning the data subject – therefore there is no need to add this caveat.

Amendment 1406  
Article 17 – paragraph 1 a (new)

***Commission Proposal***

***Amendment***

***1a. The heirs of a deceased person shall have the right to obtain from the controller acknowledgement of the death of the data subject and an undertaking to cease disseminating his or her data.***

Comment: This is beyond our purview.

Amendment 1407 (Véronique Mathieu Houillon, Axel Voss) Article 17 – paragraph 1 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>Ia. Successors in right and title must be able to exercise the right of erasure in the event of the death of the data subject.</i>
Comment: This is beyond our purview.	

Amendment 1408 (Marie-Christine Vergiat) Article 17 – paragraph 1 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>Ia. Unless the deceased person has explicitly stipulated otherwise, his or her successors in right and title or legal representative shall have the right to obtain from the controller acknowledgement of the death of the data subject and an undertaking to cease publishing and disseminating the deceased person's data.</i>
Comment: This is beyond our purview.	

Amendment 1409 Article 17 – paragraph 1 a (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>Ia. Unless the deceased person has explicitly stipulated otherwise, his or her heirs shall have the right to insist that the controller cease processing and erase his or her personal data.</i>
Comment: This is beyond our purview.	

Amendment 1410 (Adina-Ioana Vălean, Jens Rohde) Article 17 – paragraph 1 b (new)	
<b>Commission Proposal</b>	<b>Amendment</b>
	<i>Ib. The application of paragraph 1 shall be dependent upon the ability of the data controller to verify the identity of the data subject requesting the erasure.</i>

Comment: The intent of this amendment is sensible, but the wording fails to deliver. The intention appears to be that the controller should be able to verify a particular request to be valid, which seems reasonable, also for security purposes. The amendment, however stresses verification of the identity of the data subject and not the right of the data subject over the data, which may not require the verification of the identity of the data subject.

**Amendments 1411, 1412, 1413, 1414**  
**Article 17 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.</i>	<i>deleted</i>

Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control.

**Amendment 1415 (Alexander Alvaro)**  
**Article 17 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.</i>	<p>2. The controller <i>or processor</i> referred to in paragraph 1 shall take all reasonable steps <i>to have the data erased, where the controller or the processor have authorized unlawfully according to Article 6:</i></p> <p><i>(a) the processing of personal data;</i></p> <p><i>(b) a transfer of personal data to a third party;</i>  <i>or</i></p> <p><i>(c) a publication of personal data by a third party.</i></p>

Comment: This text is somewhat unclear but makes a welcome effort to narrow the scope of the provision to cover the controller or processor taking measures to mitigate against damage which they have caused by failing to respect legal provisions.

Amendment 1416 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. Where the controller referred to in paragraph 1 has <b>made the</b> personal data <b>public</b>, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller <b>has authorised a third party publication of</b> personal data, <b>the controller shall be considered responsible for that publication.</b></p>	<p>2. Where the controller referred to in paragraph 1 has <b>explicitly or tacitly allowed third-party access to</b> personal data, it shall take all reasonable steps <b>in proportion to its capacity</b>, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data.</p> <p>Where the controller <b>who has allowed access to personal data has disappeared, has ceased to exist or for other reasons cannot be contacted by the data subject, the data subject shall have the right to obtain from third-party controllers the erasure of any links to, or copy or replication of the</b> personal data.</p>
<p>Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control. The proposed amendment makes an already poor proposal even worse.</p>	

Amendment 1417 (Adina-Ioana Vălean, Jens Rohde)  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform <b>third parties</b> which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. <b>Where</b> the controller <b>has authorised a third party publication of</b> personal data, <b>the controller shall be considered responsible for that publication.</b></p>	<p>2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform <b>legal entities to whom the original controller had authorised to further process personal data and</b> which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. The controller <b>will not be responsible for the</b> personal data <b>that the data subject has made public.</b></p>
<p>Comment: The proposed amendment is unclear and undermines legal certainty for controllers, particularly as it will be difficult, in the age of the internet, to determine what is “public” and what is not.</p>	



Amendment 1418 (Josef Weidenholzer)  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.	2. Where the controller referred to in paragraph 1 has made the personal data public <b>or transferred such data to known recipients</b> , it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.
Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control.	

Amendment 1419 (Carmen Romero López)  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller <b>has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.</b>	2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data.  <b>Where the controller who made the personal data public has taken steps measures that have had no effect has disappeared, has ceased to exist or cannot be contacted by the data subject, the latter shall have the right to obtain third parties the erasure of any links to, or copy or replication of the personal data.</b>
Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control.	

Amendment 1420 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier)  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.	2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication. <b><i>Anonymised data, pseudonymised data and encrypted data are exempted, where compliance with this provision would require the controller to undo the process of anonymisation, pseudonymisation or encryption.</i></b>
Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control. Furthermore, the drafters appear not to understand that anonymisation, by definition, cannot be undone.	

Amendment 1421  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.	2. Where the controller referred to in paragraph 1 has made the personal data public, it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data. <b><i>Third parties shall be considered to be subjects who, at the time the request is submitted, the controller is reasonably likely to be able identify and inform</i></b> that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.
Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control.	

Amendment 1422  
Article 17 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the controller referred to in paragraph 1 has made the personal data public, <b><i>it shall take all reasonable steps, including technical measures, in relation to data for the publication of which the controller is responsible, to inform third parties which are processing such data, that a data subject requests them to erase any links to, or copy or replication of that personal data. Where the controller has authorised a third party publication of personal data, the controller shall be considered responsible for that publication.</i></b>	2. Where the controller referred to in paragraph 1 has made the personal data public <b><i>without justification on the basis of Article 6(1)(b), (c), (d) and (e)</i></b> , it shall take all <b><i>necessary steps to erase that data, without prejudice to Article 77.</i></b>
Comment: The scope of paragraph 2 as proposed is unclear and could increase the liability of intermediaries and wrongly incentivise them to monitor and delete information over which they have no control. The proposed text is, however, less restrictive than that of the Commission.	

Amendment 1423  
Article 17 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. The obligation to inform referred to in paragraph 2 should be considered to have been exercised as soon as the controller has informed the third parties which he has identified of a request for the erasure of the data of the relevant subject in a form corresponding to the original publication of that data, or in some other form ensuring the effective receipt of such information.</i></b>
Comment: Controllers already have an obligation (under Article 13) to communicate any rectification or erasure to all recipients to whom personal data have been disclosed.	

Amendment 1424 (Alexander Alvaro)  
Article 17 – paragraph 3 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
	3. The controller <b><i>or processor and, where applicable, the third party</i></b> shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:
Comment: The addition of processor is helpful, however, obliging the “third party” to carry out the erasure undermines legal certainty.	

Amendment 1425 (Stanimir Ilchev) Article 17 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:	3. <b>Where</b> the controller <i>learns of a request for erasure pursuant to this article or Article 13, he</i> shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:
Comment: By adding “learns of a request”, this amendment obscures legal clarity for controllers.	

Amendment 1426 (Adina-Ioana Vălean, Jens Rohde) Article 17 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:	3. The controller shall carry out the erasure without <b>undue</b> delay, except to the extent that the retention <b>and dissemination</b> of the personal data is necessary:
Comment: Such exceptions can be determined on a case by case basis, however, the baseline rule should be clear and consistent to ensure maximum legal clarity for controllers.	

Amendment 1427 (Louis Michel) Article 17 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:	3. The controller shall carry out the erasure without <b>undue</b> delay, except to the extent that the retention of the personal data is necessary:
Comment: This weakens the obligation on behalf of the controller to act as expeditiously as possible.	

Amendment 1428 (Alexander Alvaro) Article 17 – paragraph 3 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) <b>for exercising the right of freedom of expression</b> in accordance with Article 80;	(a) <b>in the contexts referred to under Article 5a(3), (5), (6) and (8), in accordance with Articles 80, 81 and 83 of this Regulation and Article 10 of the European Convention on Human Rights;</b>
Comment: We object to the context, risk and pseudonymous approach introduced by Mr. Alvaro. We therefore also dismiss tying these references to the right to erasure.	

Amendment 1429 (Alexander Alvaro)  
Article 17 – paragraph 3 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) for reasons of public interest in the area of public health in accordance with Article 81;</i>	<i>deleted</i>
Comment: This exception is required and should remain in the Regulation. We object to the context, risk and pseudonymous approach introduced by Mr. Alvaro. We therefore also dismiss tying these references to the right to erasure.	

Amendment 1430 (Axel Voss)  
Article 17 – paragraph 3 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) for reasons of public interest in the area of public health in accordance with Article 81;</i>	<i>(b) for health proposes in accordance with Article 81 and for maintaining medical records and other health research purposes;</i>
Comment: Exemptions for health purposes is too broad and undermines legal certainty. These should be dealt with in Article 81 of the Commission's proposal.	

Amendment 1431 (Claude Moraes, Glenis Willmott)  
Article 17 – paragraph 3 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) for reasons of public interest in the area of public health in accordance with Article 81;</i>	<i>(b) for health purposes or for reasons of public interest in the area of public health in accordance with Article 81;</i>
Comment: Exemptions for health purposes is too broad and undermines legal certainty. These should be dealt with in Article 81 of the Commission's proposal.	

Amendment 1432 (Jens Rohde, Adina-Ioana Vălean)  
Article 17 – paragraph 3 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) for reasons of public interest in the area of public health in accordance with Article 81;</i>	<i>(b) for reasons of public interest in the area of public health and public health purposes in accordance with Article 81;</i>
Comment: Exemptions for health purposes is too broad and undermines legal certainty. These should be dealt with in Article 81 of the Commission's proposal.	

Amendment 1433  
Article 17 – paragraph 3 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) for <b><i>reasons of public interest in the area of public health</i></b> in accordance with Article 81;	(b) for <b><i>health purposes</i></b> in accordance with Article 81;
Comment: Exemptions for health purposes is too broad and undermines legal certainty. These should be dealt with in Article 81 of the Commission's proposal.	

Amendment 1434  
Article 17 – paragraph 3 – point b a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	(ba) for maintaining medical records for prevention, medical diagnosis, treatment, palliative care, clinical trials, patient registries, and other health research and medical innovation purposes;
Comment: Exemptions for health purposes is too broad and undermines legal certainty. These should be dealt with in Article 81 of the Commission's proposal.	

Amendment 1435 (Alexander Alvaro)  
Article 17 – paragraph 3 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) for <b><i>historical, statistical and scientific research purposes in accordance with Article 83;</i></b>	<b><i>deleted</i></b>
Comment: This exception is required and should remain in the Regulation. We oppose the context, risk and pseudonymous approach introduced by Mr. Alvaro. We therefore also oppose tying these references to the right to erasure.	

Amendment 1436 (Claude Moraes, Glenis Willmott)  
Article 17 – paragraph 3 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) for historical, statistical and scientific research purposes in accordance with Article 83;	(c) for historical, statistical and scientific research purposes in accordance with Article 83, <b><i>including for clinical trials, patient and disease registries and other health research and medical innovation purposes;</i></b>
Comment: By broadening the scope this will undermine legal certainty for controllers. Furthermore, the reference to Article 81 in the Commission proposal (Article 17(1)(b)) sufficiently cover these issues.	

Amendment 1437  
Article 17 – paragraph 3 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) for historical, statistical and scientific <b>research</b> purposes in accordance with Article 83;	(c) for historical, statistical and scientific purposes in accordance with Article 83;
Comment: The removal of “research” makes this too broad and therefore undermines legal certainty.	

Amendment 1438 (Alexander Alvaro)  
Article 17 – paragraph 3 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</i></b>	<i>deleted</i>
Comment: This exception is required and should remain in the Regulation. We oppose the context, risk and pseudonymous approach introduced by Mr. Alvaro. We therefore also oppose tying these references to the right to erasure.	

Amendment 1439 (Dimitrios Droutsas)  
Article 17 – paragraph 3 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</i></b>	<i>deleted</i>
Comment: Deleting this provision could put controllers in a position of having to decide which law to abide to.	

Amendment 1440 (Axel Voss)  
Article 17 – paragraph 3 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
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(d) for compliance with a <i>legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</i>	(d) for compliance with a <i>contract to which the data subject is party or for compliance with a legal obligation or other requirements of a supervisory body or other legal requirements to retain the personal data by Union or Member State law to which the controller is subject;</i>
Comment: This amendment doesn't seem to change the meaning of the paragraph.	

Amendment 1441 (Louis Michel) Article 17 – paragraph 3 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;	(d) for compliance with a legal obligation <i>including the requirements of supervisory authorities</i> to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;
Comment: It is not clear what could be meant by additional requirements by supervisory authorities, that would not, for instance, be covered in the Regulation or laws of Member States.	

Amendment 1442 (Cornelia Ernst, Marie-Christine Vergiat) Article 17 – paragraph 3 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;	(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of <i>essential</i> public interest, <i>fully</i> respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;
Comment: We welcome the additional clarifications on the scope of these exceptions.	



Amendment 1443 (Sarah Ludford)  
Article 17 – paragraph 3 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; <b>Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</b>	(d) for compliance with <b>or to avoid a breach of</b> a legal obligation to retain the personal data by Union or Member State law to which the controller is subject;
Comment: The Commission's clarification provides useful guidance for the intersection of the Regulation and Member State law. It should remain in the Regulation. There is no logically possible scenario where compliance with a legal obligation is not also the avoidance of a breach of an obligation.	

Amendment 1444 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 17 – paragraph 3 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;	(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; <b>Union law and</b> Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;
Comment: This doesn't seem to change the essence of paragraph 3(d).	

Amendment 1445 (Salvatore Iacolino)  
Article 17 – paragraph 3 – point d a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	(da) for the prevention or detection of criminal offences, in particular identity fraud against the data subject and financial crimes;
Comment: These exceptions are sufficiently covered in paragraph 3(d) in the Commission's proposal.	

Amendment 1446 (Axel Voss)  
Article 17 – paragraph 3 – point e a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ea) for prevention or detection of fraud or other financial crime, confirming identity or determining creditworthiness.</i>
Comment: This proposal is too broad and will under mine legal clarity. Furthermore, section 1(a)-(d) outlines the grounds on which data subjects can invoke the right to erasure, which does not include the deletion of public records.	

Amendment 1447 (Wim van de Camp)  
Article 17 – paragraph 3 – point e a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	(ea) for purposes of the prevention and detection of fraud, and to the extent criminal data are processed, such processing is in accordance with Article 9(2) point j).
Comment: This proposal is too broad and will undermine legal clarity. Furthermore, section 1(a)-(d) outlines the grounds on which data subjects can invoke the right to erasure, which does not include the deletion of public records.	

Amendment 1448 (Adina-Ioana Vălean, Jens Rohde)  
Article 17 – paragraph 3 – point e a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	(ea) for prevention or detection of fraud, confirming identity, and/or determining creditworthiness, or ability to pay.
Comment: This proposal is too broad and will undermine legal clarity. Furthermore, section 1(a)-(d) outlines the grounds on which data subjects can invoke the right to erasure, which does not include the deletion of public records.	

Amendment 1449  
Article 17 – paragraph 3 – point e a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	(ea) if in the legitimate interest of data controllers maintaining data so long as it does not cause prejudice or harm to the data subject, their rights or interests.

Comment: The broadness of the term “legitimate interest” creates legal uncertainty, both for data subjects and business. Furthermore this uncertainty will most probably lead to divergences in practice between different Member States and therefore a failure to achieve the goal of harmonisation. The concept of “prejudice” here is also very vague. The unnecessary storage of data creates a security risk and is automatically a prejudice and potential harm for the data subject's rights and interests

**Amendment 1450 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 17 – paragraph 3 – subparagraph 1 a**

<i>Commission Proposal</i>	<i>Amendment</i>
	In the cases referred to in points (a) to (d), the data subject may exercise the right to object to the establishment of links or creation of copies or replications of his personal data. The viability of this right shall be resolved in the light of all the circumstances involved in the case, whilst making efforts not to frustrate the specific basis for the retention of data.

Comment: This addition is not necessary - Article 17(4) already lists the occasions when the controller shall restrict processing of personal data (if erasure is not possible). For data retention laws, this is addressed under paragraph 3(d).

**Amendment 1451 (Sophia in 't Veld)  
Article 17 – paragraph 3 – subparagraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>When the controller no longer exists, has disappeared or cannot be identified or contacted, the data subject has the right to obtain the erasure of personal data relating to him or her from third parties that process that personal data, where the same grounds apply as in Article 17(1).</i>

Comment: This is a valuable addition and strengthens the ability of the data subject to exercise the right to erasure.

**Amendment 1452 (Carmen Romero López)  
Article 17 – paragraph 3 – subparagraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	When data are retained under the provisions of points (a), (b), (c) and (d), and the controller has made them public, the data subject may, for reasons related to overriding interests, rights or freedoms, exercise the right to object to links to, or the copying or replication of, such data, unless such processing forms an essential part of the rights, interests, obligations or purposes to which these points relate.

Comment: This amendment doesn't add much of value – unless the other amendment above which remove rights in relation to “publicly available information” are adopted, in which case this adds a little clarification.

**Amendment 1453 (Alexander Alvaro)**  
**Article 17 – paragraph 4 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
4. Instead of erasure, the controller shall restrict processing of personal data where:	4. Instead of erasure, the controller <i>or processor</i> shall restrict processing of personal data where:
Comment: This is a welcome addition.	

**Amendment 1454 (Monika Hohlmeier, Axel Voss)**  
**Article 17 – paragraph 4 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
4. Instead of erasure, the <i>controller shall restrict processing of personal data</i> where:	4. Instead of erasure, the <i>data shall be blocked</i> where:
Comment: The term “blocking” has no legal meaning and there are several technical measures that can be considered “blocking”, particularly in the internet environment. This formulation must be avoided.	

**Amendment 1455 (Ewald Stadler)**  
**Article 17 – paragraph 4 – introductory part**

<i>Commission Proposal</i>	<i>Amendment</i>
4. Instead of erasure, the controller shall <i>restrict processing of</i> personal data where:	4. Instead of erasure, the controller shall <i>block</i> personal data where:
Comment: The term “blocking” has no legal meaning and there are several technical measures that can be considered “blocking”, particularly in the internet environment. This formulation must be avoided.	

**Amendment 1456 (Louis Michel)**  
**Article 17 – paragraph 4 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(a) their accuracy is contested by the data subject, for a period enabling the controller to verify the accuracy of the data;</i>	

Comment: This paragraph strengthens the rights of the data subject, particularly in the digital environment, if the erasure of their data is not possible. This should remain in the Regulation.

Amendment 1458 (Axel Voss)  
Article 17 – paragraph 4 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof;	(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof <b>or for compliance with legal record obligations;</b>

Comment: This addition is unclear and obscures legal clarity.

Amendment 1459 (Louis Michel)  
Article 17 – paragraph 4 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) <b>the controller no longer needs the personal data for the accomplishment of its task but they</b> have to be maintained for purposes of proof;	(b) <b>data</b> have to be maintained for purposes of proof;

Comment: This is too broad and reduces legal clarity for controllers.

Amendment 1460 (Sarah Ludford)  
Article 17 – paragraph 4 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for <b>purposes of proof;</b>	(b) the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for <b>the purpose of defending legal claims;</b>

Comment: The addition of defending legal claims is too broad.

Amendment 1461 (Monika Hohlmeier)  
Article 17 – paragraph 4 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(b) <b>the controller no longer needs the personal data for the accomplishment of its task but they have to be maintained for purposes of proof;</b>	(b) <b>their accuracy cannot be ascertained;</b>

Comment: The amendment bears no obvious relationship with the original text.

**Amendment 1462 (Monika Hohlmeier)**  
**Article 17 – paragraph 4 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(c) the processing is unlawful and the data subject opposes their erasure and requests the restriction of their use instead;</i>	<i>(c) the data are no longer required for the purpose of storage but they cannot be deleted on account of statutory, statutes-based or contractual periods for which they are required to be kept;</i>

Comment: The amendment bears no obvious relationship to the text it seeks to amend.

**Amendment 1463 (Louis Michel)**  
**Article 17 – paragraph 4 – point d**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(d) the data subject requests to transmit the personal data into another automated processing system in accordance with Article 18(2).</i>	<i>deleted</i>

Comment: This supports the right to data portability and should remain in the Regulation.

**Amendment 1464 (Monika Hohlmeier)**  
**Article 17 – paragraph 4 – point d**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(d) the data subject requests to transmit the personal data into another automated processing system in accordance with Article 18(2).</i>	<i>(d) there are grounds for assuming that erasure would damage interests of the data subject which deserve to be protected;</i>

Comment: This suggestion is too broad and obscures legal clarity for data subjects and controllers.

**Amendment 1465 (Monika Hohlmeier, Axel Voss)**  
**Article 17 – paragraph 4 – point d a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) or, on account of the particular type of storage, erasure would be impossible or would involve disproportionate efforts.</i>

Comment: This addition is not legally precise and would open the door to allow controllers to circumvent this obligation as it is not clear what would involve a “disproportionate effort”.

**Amendment 1466 (Ewald Stadler)**  
**Article 17 – paragraph 4 – point d a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) for technical reasons, erasure would be impossible or would involve disproportionate efforts.</i>

Comment: This addition is not legally precise and would open the door to allow controllers to circumvent this obligation as it is not clear what would involve a “disproportionate effort”.

**Amendment 1467 (Monika Hohlmeier)**  
**Article 17 – paragraph 5**

<i>Commission Proposal</i>	<i>Amendment</i>
5. Personal data <i>referred to in</i> paragraph 4 may, with the exception of storage, only be processed <i>for purposes of proof, or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.</i>	5. Personal data <i>blocked pursuant to</i> paragraph 4 may, with the exception of storage, only be processed: <i>(a) with the data subject's consent;</i> <i>(b) if they are to be used for scientific purposes;</i> <i>(c) to overcome a lack of evidence; or</i> <i>(d) where this is essential for other reasons in the overriding interest of the controller or of a third party;</i> <i>(e) and it would be permissible to process the data for this purpose if they were not blocked.</i>

Comment: These broaden the grounds on which data can be processed and undermine legal clarity, particularly point (b) and (c).

**Amendment 1468 (Axel Voss)**  
**Article 17 – paragraph 5**

<i>Commission Proposal</i>	<i>Amendment</i>
5. Personal data referred to in paragraph 4 may, with the exception of storage, only be processed for purposes of proof, or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.	5. Personal data referred to in paragraph 4 may, with the exception of storage, only be processed for purposes of proof <i>or for compliance with legal record obligations</i> , or with the data subject's consent, or for the protection of the rights of another natural or legal person or for an objective of public interest.

Comment: This text seems to provide a clarification for something that is already perfectly clear.

**Amendment 1469 (Alexander Alvaro)**  
**Article 17 – paragraph 6**

<i>Commission Proposal</i>	<i>Amendment</i>
6. Where processing of personal data is restricted pursuant to paragraph 4, the controller shall inform the data subject before lifting the restriction on processing.	6. Where processing of personal data is restricted pursuant to paragraph 4, the controller <b>or processor</b> shall inform the data subject before lifting the restriction on processing.

Comment: This addition is welcome as it further strengthen's the data subject's right to erasure.

**Amendment 1470 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 17 – paragraph 6 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>6a. Requests for the rectification, erasure or blocking of data shall not prejudice processing that is necessary to secure, protect and maintain the resiliency of one or more information systems. In addition, the right of rectification and/or erasure or personal data shall not apply to any personal data that is required to be maintained by legal obligation or to protect the rights of the controller, processor or third parties.</i></b>

Comment: Restrictions on the right to erasure are sufficiently addressed in paragraph 3, so there is no need to repeat it here. It is also unclear as to how erasure of personal data would interfere with the resiliency of one or more information systems.

**Amendment 1471 (Monika Hohlmeier)**  
**Article 17 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>7. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.</i></b>	<b><i>deleted</i></b>

Comment: This is a safeguard that should remain in the Regulation as it strengthen's the right to erasure of the data subject.



Amendment 1472 (Louis Michel)  
Article 17 – paragraph 7

<i>Commission Proposal</i>	<i>Amendment</i>
<b>7. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.</b>	<i>deleted</i>
Comment: This is a safeguard that should remain in the Regulation as it strengthens the right to erasure of the data subject.	

Amendment 1473 (Alexander Alvaro)  
Article 17 – paragraph 7

<i>Commission Proposal</i>	<i>Amendment</i>
7. The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.	7. The controller <b>or processor</b> shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.
Comment: This addition is welcome as it further strengthens the data subject's right to erasure.	

Amendment 1474 (Alexander Alvaro)  
Article 17 – paragraph 8

<i>Commission Proposal</i>	<i>Amendment</i>
<b>8. Where the erasure is carried out, the controller shall not otherwise process such personal data.</b>	<i>deleted</i>
Comment: Removing this provision undermines the very purpose of Article 17 and should therefore remain in the Regulation.	

Amendment 1475 (Timothy Kirkhope)  
Article 17 – paragraph 8

<i>Commission Proposal</i>	<i>Amendment</i>
<b>8. Where the erasure is carried out, the controller shall not otherwise process such personal data.</b>	<i>deleted</i>

Comment: Removing this provision undermines the very purpose of Article 17 and should therefore remain in the Regulation.

**Amendment 1476 (Alexander Alvaro)  
Article 17 – paragraph 8 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	8a. Where pseudonymised data according to Article 4(2a) are processed, it is sufficient to erase all relating links to the data subject by removing these permanently and completely and therefore anonymising the remaining data according to Article 4(2b) in order to comply with this Article.

Comment: We reject the definition of pseudonymised data as proposed by Mr. Alvaro (4(2a)) and therefore dismiss its reference here as well. The amendment also underestimates the ease with which data can be re-identified.

**Amendment 1477  
Article 17 – paragraph 8 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	8a. Where the conditions for the right to be forgotten and to erasure are met pursuant to paragraphs 1 and 2, the data subject shall also have the right to request the rectification, erasure, deletion or delisting of personal data to any service of the Information Society, which provides tools enabling or facilitating research or access to data.

Comment: This proposal is too vague as it is not clearly defined what “any service of the information society” might entail. The right to erasure concerns data controllers.

**Amendment 1489 (Monika Hohlmeier)  
Article 17 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 17a</i></p> <p style="text-align: center;"><i>Laying down time limits for erasure</i></p> <p style="text-align: center;"><i>The controller shall implement mechanisms to ensure that the time limits established for the erasure of personal data and/or for a periodic review of the need for the storage of the data are observed.</i></p>

Comment: Addressing this provision in a separate article is not necessary as it refers to the right to erasure and is not a horizontal provision. It is sufficiently addressed in Article 17(7).

Amendment 1490

(Axel Voss, Véronique Mathieu Houillon, Hubert Pirker, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Anna Maria Corazza Bildt).

Article 18

<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>Article 18</b></p> <p><b><i>Right to data portability</i></b></p> <p><b><i>1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.</i></b></p> <p><b>Article 18</b></p> <p><b><i>Right to data portability</i></b></p> <p><b><i>1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.</i></b></p> <p><b><i>2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</i></b></p> <p><b><i>3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i></b></p>	<p><b><i>deleted</i></b></p>

Comment: Data portability is a key element to strengthen the rights of the data subject, as well as to ensure healthy competition, as it would prevent consumers from being “locked in” to services. Deleting this Article is acceptable only on the condition that it is included in Article 15.

Amendment 1493 (Alexander Alvaro), Amendment 1494 (Adina-Ioana Vălean, Jens Rohde)  
Article 18 – title

<i>Commission Proposal</i>	<i>Amendment</i>
Right to <i>data portability</i>	Right to <i>obtain data</i>
Comment: Articulating a right to “data portability” will strengthen the ability of the data subject to exercise this right, and it should therefore remain as is.	

Amendment 1495 (Dimitrios Droutsas), Amendment 1496 (Louis Michel)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
<i>1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.</i>	<i>deleted</i>
Comment: Data portability is a key element to strengthen the rights of the data subject, as well as to ensure healthy competition, as it would prevent consumers from being “locked in” to services. <u>Deleting this Article is acceptable only on the condition that it is included in Article 15.</u>	

Amendment 1497 Alexander Alvaro  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject <i>shall have the right</i> , where personal data are processed by electronic means <i>and in a structured and commonly used format</i> , to obtain from the controller a copy of <i>data undergoing processing</i> in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. <i>Where</i> the data subject <i>has provided the personal data and</i> where personal data are processed by electronic means, <i>the data subject shall have the right</i> to obtain from the controller a copy of <i>the provided personal data</i> in an electronic and structured format which is commonly used and allows for further use by the data subject, <i>without hindrance from the controller from whom the personal data are withdrawn</i> .
Comment: These extra clarifications are useful to clarify the application of the right to data portability, however “without hindrance from the controller” is vague and obscures legal clarity.	

Amendment 1498  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing <b><i>in an electronic and structured format which is commonly used and allows for further use by the data subject.</i></b>	1. The data subject shall, <b><i>unless it would require a disproportionate effort by the data controller,</i></b> have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing.
Comment: As it is not clear what would comprise of a “disproportionate effort” on behalf of controllers, this addition could undermine the rights of the data subject in exercising this right.	

Amendment 1499 (Nils Torvalds)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing <b><i>in an electronic and structured format which is commonly used and allows for further use by the data subject.</i></b>	1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing.
Comment: To ensure the data that is accessed by the data subject is actually usable and implementation of this right is practical, these specifications must remain in the text.	

Amendment 1500 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. The data subject shall have the right, where personal data are processed by electronic means and in a structured format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.  <b><i>Where the format requested by the data subject differs from the processing format, the controller may impose a charge for conversion at a level which may not exceed the cost of the service provided at market prices.</i></b>
Comment: Adding financial barriers by allowing controllers to impose costs for this right would weaken the ability of the data subject to exercise the right to data portability. The cost of providing access to portable data should be considered as part of the predictable business expenses of the processor.	

Amendment 1501  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means <b>and in a structured and commonly used format</b> , to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. The data subject shall have the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic, <b>interoperable</b> and structured format which is commonly used and allows for further use by the data subject.
Comment: Specifying that the data should be provided in an interoperable format ensures the usability and portability of the data on behalf of the data subject.	

Amendment 1502 (Josef Weidenholzer, Birgit Sippel)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means <b>and in a structured and commonly used format</b> , to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. The data subject shall have the right, where personal data are processed by electronic means to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.
Comment: Controllers should not have the possibility to deny making the data available by claiming that the format used is not “commonly used”	

Amendment 1503  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means <b>and in a structured and commonly used format</b> , to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. The data subject shall have the right, where personal data are processed by electronic means, to obtain from the controller a copy of data undergoing processing in an electronic, <b>interoperable</b> and structured format which is commonly used and allows for further use by the data subject.
Comment: Specifying that the data should be provided in an interoperable format ensures the usability and portability of the data on behalf of the data subject.	

Amendment 1504 (Timothy Kirkhope)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject, <b><i>in so far as it does not breach the intellectual property rights or legitimate private trade practices of the data controller.</i></b>
Comment: The right to data portability concerns the retrieval by the data subject of their personal data from the controller and has nothing to do with trade secrets or other intellectual property rights of the controller.	

Amendment 1505 (Adina-Ioana Vălean, Jens Rohde)  
Article 18 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject <b><i>shall have the right</i></b> , where personal data are processed by electronic means <b><i>and in a structured and commonly used format</i></b> , to obtain from the controller a copy of <b><i>data undergoing processing</i></b> in an electronic and structured format which is commonly used and allows for further use by the data subject.	1. <b><i>Where</i></b> the data subject <b><i>has provided the personal data and</i></b> where personal data are processed by electronic means, <b><i>the data subject shall have the right</i></b> to obtain from the controller a copy of <b><i>the provided personal data</i></b> in an electronic and structured format which is commonly used and allows for further use by the data subject, <b><i>without hindrance from the controller from whom the personal data are withdrawn.</i></b>
Comment: These extra clarifications are useful to clarify the application of the right to data portability, however “without hindrance from the controller” is vague and could be used by controllers to deny data subjects this right.	

Amendment 1506 (Alexander Alvaro), Amendment 1507 (Adina-Ioana Vălean, Jens Rohde),  
Amendment 1508 (Dimitrios Droutsas), Amendment 1509 (Louis Michel )  
Article 18 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are</i></b>	<b><i>deleted</i></b>

<i>withdrawn.</i>	
<p>Comment: We agree that the applicability of the right to data portability should be extended to cases beyond processing based on contract or consent, however full deletion of paragraph 2 is not necessary (only removing “and the processing is based on consent or contract” would be a more productive approach.).</p>	

**Amendment 1510 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)**  
**Article 18 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p>	<p>2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p> <p><b><i>The controller from whom the personal data are withdrawn shall delete those data, unless their continued processing is covered by another legal provision in force. Union and Member State laws may regulate cases where there is a legal obligation to store data, based on objectives of public interest proportionate to the aim pursued, and respecting the essence of the right to the protection of personal data.</i></b></p>

Comment: This right is without prejudice to the obligation to delete data when they are no longer needed (Article 17). The proposed text adds no additional meaning but does reduce the clarity of the text.

**Amendment 1511**  
**Article 18 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. Where the data subject has provided the personal data <b><i>and the processing is based on consent or on a contract</i></b>, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p>	<p>2. Where the data subject has provided the personal data, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p>



Comment: The applicability of the right to data portability should be extended to cases beyond processing based on contract or consent

**Amendment 1512**  
**Article 18 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data <b><i>and any other information provided by the data subject and</i></b> retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.	2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data retained by an automated processing system, into another one, in an electronic format which is commonly used, <b><i>with the exception of data prejudicial to business confidentiality which are provided in the form of hard copies,</i></b> without hindrance from the controller from whom the personal data are withdrawn.

Comment: The right to data portability concerns the retrieval by the data subject of their personal data from the controller and has nothing to do with trade secrets or other intellectual property rights of the controller.

**Amendment 1513 (Claude Moraes, Glenis Willmott)**  
**Article 18 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Where paragraphs 1 and 2 refer to data concerning health or data processed for historical, statistical or scientific purposes, and in accordance with the conditions and safeguards set out under Articles 81 and 83, the controller may reserve the right to guarantee the validity of the data by including a form of official verification.</i></b>

Comment: The lack of clarity regarding the scope of activities that might be covered by “historical, statistical or scientific” purposes makes it impossible to assess the “real world” impact of this amendment.

**Amendment 1514 (Cornelia Ernst, Marie-Christine Vergiat)**  
**Article 18 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Member States shall promote and use a freely-available and user-friendly format to exercise the data portability right.</i></b>

Comment: This is a helpful addition.

Amendment 1515  
Article 18 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>2a. In exercising his or her right to portability, the data subject must inform the controller from whom the data are withdrawn that he or she also wants the data to be erased, in accordance with the provisions of Article 17.</b>

Comment: This right is separate and without prejudice to the obligation to delete data when they are no longer needed (Article 17). This appears to unintentionally place an obligation on the data subject to end his/her business relationship with the data controller, if data portability is being used. This seems not to have any public policy value and appears to be unnecessarily damaging for both parties.

Amendment 1521 (Adina-Ioana Vălean, Jens Rohde)  
Article 18 – paragraph 3

<i>Commission Proposal</i>	<i>Amendment</i>
<b>3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</b>	<b>3. The electronic format, related functionalities and procedures for the transmission of personal data pursuant to paragraph 2, shall be determined by the controller by reference to the most appropriate industry standards available or as defined by industry stakeholders or standardisation bodies. The Commission shall promote and assist industry, stakeholders and standardisation bodies in the mapping and adoption of technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2.</b>

Comment: Allowing industry to decide the format is not sufficient in ensuring that data subjects can exercise this right. Furthermore, it is not clear which industry standards this may refer to, which undermines legal clarity. “By reference” is also very unclear.

Amendment 1522  
Article 18 – paragraph 3 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>3a. Paragraphs 2 and 3 shall not be applicable to the public sector.</b>

Comment: Limitations to the right to data portability are already outlined in paragraph 1 and 2 and there is no compelling reason to exempt the public sector.

Amendment 1523 (Alexander Alvaro) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, <b><i>on grounds relating to their particular situation</i></b> , at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), <b><i>unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.</i></b>	1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1).
Comment: We support an extension of the right to object. However, Mr. Alvaro's amendments propose a far-reaching overhaul of data protection law, which leads to loopholes in protection of citizens as well as a loss of control on the processing of their data. When reading this amendment in conjunction with these other amendments, we believe a right to object will not remedy this loss of control or provide proper protection against the introduction of risk-based processing which I.e. Exempts the processing of 'pseudonymous' data.	

Amendment 1524 (Cornelia Ernst) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, <b><i>on grounds relating to their particular situation</i></b> , at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), <b><i>unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.</i></b>	1. The data subject shall <b><i>always</i></b> have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1). <b><i>This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.</i></b>
Comment: We support this extension of the right to object.	

Amendment 1524 (Monika Hohlmeier) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, on grounds relating to their particular situation, <b><i>at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1)</i></b> , unless the controller demonstrates <b><i>compelling</i></b> legitimate grounds for the processing which override the interests <b><i>or fundamental rights and freedoms</i></b> of the data subject.	1. The data subject shall have the right to object, on grounds relating to their particular situation, unless the controller demonstrates legitimate <b><i>interests</i></b> which override the interests of the data subject. <b><i>There shall be no right to object where the processing is required by law.</i></b>
Comment: This limitation of the right to object is unacceptable as it leads to a shift of powers that is even further off than under the original Commissions proposal. The justification does not seem to be drafted in the knowledge that the legitimate interests in article 6 are supposed to be different from the 'grounds' in this article as article 19 requires a second balance test to be performed.	

Amendment 1526 (Adina-Ioana Vălean, Jens Rohde) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, <b><i>on grounds relating to their particular situation</i></b> , at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), <b><i>unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.</i></b>	1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1).
Comment:	

Amendment 1527 (Timothy Kirkhope) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.	1. The data subject shall have the right to object at 1. The data subject shall have the right to object <b><i>to processing</i></b> , on grounds relating to their particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.
Comment: We support an extension of the right to object. However, a right to object will not remedy this loss of control or provide proper protection against the introduction of risk-based processing which i.a. exempts the processing of 'pseudonymous' data.	

Amendment 1528 (Dimitrios Droutsas) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, <b><i>on grounds relating to their particular situation</i></b> , at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), <b><i>unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.</i></b>	1. The data subject shall have the right to object at any time to the processing of personal data which is based on points (d) and (e) of Article 6(1).
Comment: We support Mr Droutsas' approach to allow direct marketing only upon consent, but the proposed change in conjunction with Amendment 1534 creates a loophole as objection against other forms of data processing based on article 6(1)(f) besides direct marketing.	

Amendment 1529 (Louis Michel) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, on grounds relating to <b><i>their</i></b> particular situation, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), <b><i>unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.</i></b>	1. The data subject shall have the right to object, on <b><i>compelling legitimate</i></b> grounds relating to <b><i>his</i></b> particular situation, at any time to the processing of personal data <b><i>relating to him</i></b> which is based on points (d), (e) and (f) of Article 6(1).
Comment: This is an unacceptable dilution of data subjects rights by requiring compelling grounds as a prerequisite for successful objection.	

Amendment 1530 (Josef Weidenholzer) Article 19 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. The data subject shall have the right to object, <b><i>on grounds relating to their particular situation,</i></b> at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.	1. The data subject shall have the right to object, at any time to the processing of personal data which is based on points (d), (e) and (f) of Article 6(1), unless the controller demonstrates compelling legitimate grounds for the processing which override the interests or fundamental rights and freedoms of the data subject.
Comment: This is a good amendment strengthening the position of the data subject.	

Amendment 1531 (Cornelia Ernst, Marie-Christine Vergiat) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. <b><i>Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.</i></b>	<b><i>deleted</i></b>
Comment: This is a good amendment provided that the MEPs aim to allow direct marketing only after consent has been obtained.	

Amendment 1532 (Monika Hohlmeier) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Where personal data are processed <b>for direct marketing purposes</b> , the data subject shall have the right to object free of charge to the processing of their personal data for <b>such marketing</b> . This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. Where personal data are processed <b>in accordance with Article 6(1)(f)</b> , the data subject shall have the right to object free of charge to the processing of their personal data for <b>that purpose</b> . This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.
Comment: This is a good amendment, granting data subjects a full right of objection for processing based on article 6(1)(f). However, an extension of the right to object can never legitimize excessive data processing. An extension of the legitimate interest ground can thus not be remedied by a stronger right of objection.	

Amendment 1533 (Timothy Kirkhope) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object <b>free of charge</b> to the processing of their personal data for such marketing. This right shall be <b>explicitly</b> offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object <b>to processing</b> to the processing of their personal data for such marketing. This right shall be offered to the data subject in an intelligible <b>and clear</b> manner and shall be clearly distinguishable from other information.
Comment: This is an unacceptable dilution of data subjects rights by 'hiding' the opt out option from data subjects as well as creating the option of charging a fee for opt outs. Well below level of 95/46/EC.	

Amendment 1534 (Dimitrios Droutsas) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. <b>Where</b> personal data <b>are processed</b> for direct marketing purposes, the data subject shall <b>have the right to object free of charge to the processing of their personal data for such marketing</b> . This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. <b>Processing of</b> personal data for direct marketing purposes <b>shall require the explicit consent of</b> the data subject. <b>The data shall not be given to third parties. A withdrawal of consent shall be possible at all times and free of charge.</b> This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.
Comment: This is a good amendment. However see comment to Amendment 1528; there is no separate possibility to object to data processing based on article 6(1)(f) that does not qualify as direct marketing.	

Amendment 1535 (Louis Michel) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. Where personal data are processed <i>or intended to be processed</i> for direct marketing purposes, the data subject shall have <i>at any time, without any further justification</i> , the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.
Comment: This amendment clarifies Commissions proposal but introduces the option to allow data controllers to charge a fee for opt-out requests which is unacceptable.	

Amendment 1536 (Josef Weidenholzer, Birgit Sippel) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. <i>Where</i> personal data <i>are processed</i> for direct marketing purposes, the data subject shall <i>have the right to object free of charge to the processing of their personal data for such marketing</i> . This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. <i>Processing of</i> personal data for direct marketing purposes <i>shall require the explicit consent of</i> the data subject. <i>The data shall not be given to third parties. A withdrawal of consent shall be possible at all times and free of charge.</i> This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.
Comment: This is a good amendment stating that consent is required for direct marketing.	

Amendment 1537 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier, Anna Maria Corazza Bildt) Article 19 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.	2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object free of charge to the processing of their personal data for such marketing. This right shall be explicitly offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.  <i>This right shall include a right to object to the collection and use of personal data obtained through online tracking of the data subject's preferences and behaviour across websites. Where a data subject expresses this right to object through technical means, such as a browser setting, controllers and processors shall</i>

	<i>respect such objection, consistent with technical industry standards, and must obtain the consent of the data subject to process personal data derived from online tracking for marketing purposes. Consent to online tracking shall enable persistent online tracking across all websites unless such consent is subsequently revoked by the data subject.</i>
Comment: This is an unacceptable dilution of data subjects rights; tracking data subjects across the internet is currently only allowed when proper consent has been obtained. Such consent can be granted through technical means, but should never be presupposed. The proposed extension of the opt-out mechanism is thus an unacceptable solution.	

Amendment 1538 (Timothy Kirkhope) Article 19 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall no longer use or otherwise process the personal data concerned.</b>	<i>deleted</i>
Comment: This amendment renders objecting to data processing useless.	

Amendment 1539 (Csaba Sógor) Article 19 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall <b>no longer</b> use <b>or otherwise process</b> the personal data concerned.	3. Where an objection is upheld pursuant to paragraphs 1 and 2, the controller shall use the personal data concerned <b>only for historical, statistical or research purposes or, depending on the option chosen, delete it.</b>
Comment: This is a unacceptable amendment. Exceptions for these purposes must be dealt with in article 83 and may not result in an upfront limitation of the possibility to object to data processing for very broad reasons (what exactly are 'research purposes'? If a data subject's objection is upheld, the processing should always be terminated, regardless of the interest on the side of the controller.	

Amendment 1540 (Axel Voss) Article 19 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where an objection is upheld pursuant to paragraphs 1 <b>and 2</b> , the controller shall no longer use or otherwise process the personal data concerned.	3. Where an objection is upheld pursuant to paragraphs 1, <b>2 and 3a</b> the controller shall no longer use or otherwise process the personal data concerned.
Comment:	



Amendment 1541 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 19 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Where an objection is upheld pursuant to <b>paragraphs 1 and 2</b> , the controller shall no longer use or otherwise process the personal data concerned.	3. Where an objection is upheld pursuant to <b>paragraph 1, the controller shall inform the data subject of the compelling legitimate grounds which apply in accordance with paragraph 1 or, if he does not do so, he shall no longer use or otherwise process the personal data concerned; where the objection is upheld pursuant to paragraph 2</b> , the controller shall no longer use or otherwise process the personal data concerned.
Comment: This amendment gives data controllers the right to continue the use of personal data even when the objection is upheld and the interests of the data subject should prevail over the interests of the data controllers in this case.	

Amendment 1542 (Adina-Ioana Vălean, Jens Rohde) Article 19 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>3a. Where pseudonymous data is processed pursuant to Article 6 (1), the data subject shall have the right to object free of charge. This right shall be offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.</b>
Comment: This is an unacceptable dilution of data subjects’ rights related to amendments that propose to allow processing of pseudonymized personal data without consent. An extension of the opt-out mechanism will not provide enough privacy protection for individuals when their data can be freely processed in a pseudonymized form. This proposed extension of the opt-out mechanism is thus an unacceptable solution.	

Amendment 1543 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier) Article 19 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>3a. Where pseudonymised data is processed pursuant to Article 6(1) the data subject shall have the right to object free of charge. This right shall be offered to the data subject in an intelligible manner and shall be clearly distinguishable from other information.</b>
Comment: This is an unacceptable dilution of data subjects’ rights related to amendments that propose to allow processing of pseudonymized personal data without consent. An extension of the opt-out mechanism will not provide enough privacy protection for individuals when their data can be freely processed in a pseudonymized form. This proposed extension of the opt-out mechanism is thus an unacceptable solution.	

Amendment 1544 (Louis Michel) Article 20 - title	
<i>Commission Proposal</i>	<i>Amendment</i>
Measures based on <i>profiling</i>	3. Where an objection is upheld pursuant to Measures based on <i>automated processing</i>
Comment:	

Amendment 1545 (Alexander Alvaro) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right <i>not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.</i>	1. Every natural person shall have the right <i>to object to being subject to measures based on profiling as defined under Article 4(2).</i>
Comment: This is an unacceptable change; profiling is changed from an opt-in (not subject unless a number of exceptions apply) rule to an opt-out (the right to object to be subject to such processing). This is not clearly reflected in the justification.	

Amendment 1546 (Monika Hohlmeier) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based <i>solely</i> on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is a good amendment as this broadens the scope of measures based on profiling.	

Amendment 1547 (Adina-Ioana Vălean, Jens Rohde) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>

1. Every <i>natural person</i> shall have the right not to be subject to a measure which <i>produces legal effects concerning this natural person or significantly affects this natural person</i> , and which is based solely on automated processing <i>intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's</i> performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every <i>data subject</i> shall have the right <i>to request</i> not to be subject to a measure which <i>adversely</i> affects this <i>data subject</i> and which is based solely on automated processing <i>of data intended to evaluate, analyse or predict the data subject's</i> performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is an unacceptable changes; profiling is changed from an opt-in (not subject unless a number of exceptions apply) rule to an opt-out (the right to request not to be subjected to such processing). Secondly, there seems to be no right to object to profiling that has no 'adverse' effects. Finally, the 'adverse affect' criterium is not a good criterium to decide whether or not to allow profiling.	

Amendment 1548 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person, <i>both off-line and online</i> , shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is a good amendment.	

Amendment 1549 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every <i>natural person</i> shall have the right not to be subject to a <i>measure</i> which produces legal effects concerning this <i>natural person or significantly affects this natural person</i> , and which is based solely on automated processing intended to evaluate certain personal aspects relating to this <i>natural person</i> or to analyse or predict in particular the <i>natural person's</i> performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every <i>data subject</i> shall have the right not to be subject to a <i>processing of personal data</i> which produces <i>adverse</i> legal effects concerning this <i>data subject or comparably</i> affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this <i>data subject</i> or to analyse or predict in particular the <i>data subject's</i> performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is a bad amendment, limiting the scope from 'natural person' to 'data subject' which results in less protection for citizens as people that will be scored against a control group (X gets a higher insurance rate because she is female and 34 and all women in their 30's are bad drivers) are probably not	

protected (the data used to 'score' X are not 'related to' X, which is a prerequisite to qualify as 'data subject'. Finally, the addition of “adverse” legal effects would weaken this provision as citizens would have the right to object to such measures only if the controller deems that it would result in “adverse” legal effects.

**Amendment 1550 (Sophia in 't Veld)**  
**Article 20 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal <b>effects</b> concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person shall have the right not to be subject to a measure which produces <b>a</b> legal <b>effect</b> concerning this natural person or significantly affects this natural person, and which is based solely <b>or predominantly</b> on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour. <b>Such automated processing may include the application of web analysing tools, tracking for assessing user behaviour, the creation of motion profiles by mobile applications, or the creation of personal profiles by social networks.</b>

Comment: This is a good amendment increasing protection against unwanted profiling based on sensitive data.

**Amendment 1551 (Lidia Joanna Geringer de Oedenberg)**  
**Article 20 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or significantly <b>adversely</b> affects this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.

Comment: This is an unacceptable change; the 'adverse affect' criterium is not a good criterium to decide whether or not to allow profiling. It is up to the controller to determine what constitutes 'adverse' and will not provide enough protection for data subjects. Profiling that significantly affects natural persons one way or the other should always only be allowed based on the grounds mentioned in article 20(2).

Amendment 1552 (Josef Weidenholzer, Birgit Sippel) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or <b>significantly</b> affects this natural person, and which is <b>based solely</b> on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or <b>relevantly</b> affects this natural person, and which is <b>primarily based</b> on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is a good amendment increasing protection against unwanted profiling.	

Amendment 1553 (Timothy Kirkhope) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which <b>produces legal effects concerning this natural person or significantly affects this natural person, and which</b> is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour.	1. Every natural person shall have the right not to be subject to a measure which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location, health, personal preferences, reliability or behaviour, <b>without prejudice to legal and legitimate forms of profiling in commercial use or for the purpose of the prevention, investigation or prosecution of criminal activity.</b>
Comment: This is an unacceptable changes which seriously limit the protection against profiling. Exempting 'legal and legitimate forms of profiling' for i.e. commercial use results in allowing varied forms of profiling without a legal ground.	

Amendment 1554 (Ewald Stadler) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or <b>significantly affects</b> this natural person, and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's performance at work, economic situation, location,	1. Every natural person shall have the right not to be subject to a measure which produces legal effects concerning this natural person or <b>places</b> this natural person <b>at a legal disadvantage</b> , and which is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict in particular the natural person's

health, personal preferences, reliability or behaviour.	performance at work, economic situation, location, health, personal preferences, reliability or behaviour.
Comment: This is a bad amendment, reducing the scope of protection of citizens.	

Amendment 1555 (Louis Michel) Article 20 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Every natural person shall have the right not to be subject to a <b>measure</b> which produces legal effects concerning this natural person <b>or significantly</b> affects this natural person, and <b>which</b> is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict <b>in particular</b> the natural person's performance at work, economic situation, location, health, personal preferences, <b>reliability or behaviour</b> .	1. Every natural person shall have the right not to be subject to a <b>decision</b> which produces legal effects concerning this natural person <b>and significantly negatively</b> affects this natural person, and is based solely on automated processing intended to evaluate certain personal aspects relating to this natural person or to analyse or predict the natural person's performance at work, economic situation, location, health, personal preferences <b>or reliability</b> .
Comment: This is an unacceptable change; the 'negative affect' criterium is not a good criterium to decide whether or not to allow profiling. It is up to the controller to determine what constitutes 'negative'. The criterium will thus not provide enough protection for data subjects. Profiling that significantly affects natural persons one way or the other should always only be allowed based on the grounds mentioned in article 20(2).	

Amendment 1556 (Jens Rohde, Adina-Ioana Vălean) Article 20 – paragraph 1 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>1b. Is based on the legitimate interests pursued by the data controller.</b>
Comment: This is an unacceptable change; allowing profiling based on legitimate interests leads to a decrease in the protection of citizens and allow profiling on a large and unprecedented scale.	

Amendment 1557 (Jens Rohde, Adina-Ioana Vălean) Article 20 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>2. Subject to the other provisions of this Regulation, a person may be subjected to a measure of the kind referred to in paragraph 1 only if the processing:</b>  <b>(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data</b>	<b>deleted</b>

<p><i>subject's legitimate interests have been adduced, such as the right to obtain human intervention; or</i></p> <p><i>(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i></p> <p><i>(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.</i></p>	
<p>Comment: This amendments proposed by these MEPs regarding profiling are not acceptable as they aim to give data controllers too much freedom to profile citizens (i.e. by suggesting an 'opt-out' system for profiling) without requiring that profiling is (I) only conducted when necessary or upon consent and without adequate safeguards in place.</p>	

Amendment 1558 (Alexander Alvaro) Article 20 - paragraph 2 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Subject to the other provisions of this Regulation, a person may be subjected to a measure <b><i>of the kind referred to in paragraph 1</i></b> only if the processing:	2. Subject to the other provisions of this Regulation, a person may be subjected to a measure <b><i>based on profiling</i></b> only if the processing:
Comment:	

Amendment 1559 (Louis Michel) Article 20 – paragraph 2 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
2. Subject to the other provisions of this Regulation, a person may be subjected to a <b><i>measure</i></b> of the kind referred to in paragraph 1 only if the processing:	2. Subject to the other provisions of this Regulation, a person may be subjected to a <b><i>decision</i></b> of the kind referred to in paragraph 1 only if the processing:
Comment: The word 'decision' seems narrower than 'measure', which means that the amendment decreases protection against profiling that does result in 'measures' but possibly not in (official) 'decisions'.	

Amendment 1560 (Alexander Alvaro) Article 20 – paragraph 2 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or</i></b>	<b><i>deleted</i></b>

Comment: The amendments proposed by Mr Alvaro regarding profiling are not acceptable as they aim to give data controllers too much freedom to profile citizens. Mr Alvaro suggests allowing profiling based on any of the legal grounds in article 6(1) (see Amendment 1578). Combined with the proposed changes to article 6, this would mean that profiling can (i) be based on legitimate interests and (ii) will always be legitimate provided that pseudonymized data are used. This will result in a strong decrease of the protection of citizens and a loss of control over the processing of one's personal data.

**Amendment 1561 (Sophia in't Veld)**  
**Article 20 – paragraph 2 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) is <b>carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where</b> suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or	(a) is <b>necessary for the performance of a contract to which the data subject is a party, or for the implementation of pre-contractual measures taken at the request of</b> the data subject, <b>provided that</b> suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Comment: This is a good amendment, only allowing profiling when necessary for pre-contractual measures of the performance of a contract, avoiding inconsistencies with article 6(1)(b).

**Amendment 1562 (Françoise Castex)**  
**Article 20 – paragraph 2 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) is carried <b>out in the course of the</b> entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or	(a) is carried <b>necessary for</b> entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or

Comment: This is a good amendment, only allowing profiling when necessary for pre-contractual measures of the performance of a contract, avoiding inconsistencies with article 6(1)(b).

**Amendment 1563 (Dimitrios Droutsas)**  
**Article 20 – paragraph 2 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>such as</b> the right to obtain human intervention; or	(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>including the right to be provided with meaningful information about the logic used in the profiling and</b> the right to



	obtain human intervention; or
Comment: This is a good amendment, only allowing profiling when necessary for pre-contractual measures of the performance of a contract, avoiding inconsistencies with article 6(1)(b).	

Amendment 1564 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 20 – paragraph 2 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been <b>satisfied</b> or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>such as</b> the right to obtain human intervention; or	(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been <b>examined</b> or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>including the right to obtain the information on the profiling criteria and</b> the right to obtain human intervention; or
Comment: This is a good amendment as it includes the right to information about profiling criteria.	

Amendment 1565 (Sonia Alfano, Gianni Vattimo) Article 20 – paragraph 2 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) is <b>carried out in the course of</b> the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>such as</b> the right to obtain human intervention; or	(a) is <b>necessary for</b> the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied, or where suitable measures to safeguard the data subject's legitimate interests have been adduced, <b>including the right to be provided with meaningful information about the logic used in the profiling, and</b> the right to obtain human intervention, <b>including an explanation of the decision reached after such</b> intervention; or
Comment: This is a good amendment, only allowing profiling when necessary for pre-contractual measures of the performance of a contract, avoiding inconsistencies with article 6(1)(b) and also including a right to information about profiling.	

Amendment 1566 (Cornelia Ernst, Marie-Christine Vergiat) Article 20 – paragraph 2 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or where	(a) is carried out in the course of the entering into, or performance of, a contract, where the request for the entering into or the performance of the contract, lodged by the data subject, has

suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention; or	been satisfied or where suitable measures to safeguard the data subject's legitimate interests have been adduced, such as the right to obtain human intervention <b>and arrangements that allow the data subject to submit his point of view</b> ; or
Comment: This is a good amendment, providing extra safeguards in conformity with 95/46/EC.	

**Amendment 1567 (Claude Moraes, Glenis Willmott)  
Article 20 – paragraph 2 – point a a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(aa) Profiling that has the effect of discriminating against individuals on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity, or that results in measures which have such effect, shall be prohibited. Profiling in the employment context shall be prohibited including in the practice of blacklisting of particular employees;</i></b>

Comment: This is a good amendment, providing clarification/limit to what is allowed when profiling citizens.

**Amendment 1568 (Jens Rohde, Adina-Ioana Vălean)  
Article 20 – paragraph 2 – point a a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(aa) is based on pseudonymous data;</i></b>

Comment: The amendments proposed by Ms Valean and Mr Rohde regarding profiling are not acceptable as they aim to give data controllers too much freedom to profile citizens. This amendment promotes a law under which profiling will always be legitimate provided that pseudonymized data are used. This will result in a strong decrease of the protection of citizens and a loss of control over the processing of one's personal data.

**Amendment 1569 (Dimitrios Droutsas)  
Article 20 - paragraph 2 – point a b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>(ab) Profiling shall not be used to identify or single out children;</i></b>

Comment:

Amendment 1570 (Alexander Alvaro) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i>	<i>deleted</i>
<p>Comment: The amendments proposed by Mr Alvaro regarding profiling are not acceptable as they aim to give data controllers too much freedom to profile citizens. Mr Alvaro suggests allowing profiling based on any of the legal grounds in article 6(1) (see Amendment 1578). Combined with the proposed changes to article 6, this would mean that profiling can (I) be based on legitimate interests and (ii) will always be legitimate provided that pseudonymized data are used. This will result in a strong decrease of the protection of citizens and a loss of control over the processing of one's personal data.</p>	

Amendment 1571 (Joanna Senyszyn) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i>	<i>(b) is expressly authorized by a Union or Member State law and which protects the data subjects legitimate interests and protects against possible discrimination resulting from measures described in paragraph 1;</i>
<p>Comment: This is a good amendment providing extra protection.</p>	

Amendment 1572 (Axel Voss) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i>	<i>(b) is expressly authorized by a legal basis which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i>
<p>Comment: This amendment widens the basis for profiling and is thus not acceptable.</p>	

Amendment 1573 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) is expressly authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or</i>	<i>(b) is authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests and fundamental rights, including the right to non-discrimination; or</i>
<p>Comment: It is unclear how a law can implicitly authorize certain forms of data processing. This amendment leads, regardless of the addition, to a decrease in protection of citizens against profiling as may allow profiling on any law that doesn't prevent it.</p>	

Amendment 1574 (Louis Michel) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) is <b>expressly authorized by</b> a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or	(b) is <b>necessary to comply with</b> a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or
Comment: The proposed amendment entirely changes the paragraph. Compliance with a(ny) law is a completely different notion from profiling based on a law that expressly authorizes that profiling can take place and on which conditions. This amendment lead to a steep decrease in protection of citizens against profiling as may allows profiling on any law that doesn't prevent it.	

Amendment 1575 (Sonia Alfano, Gianni Vattimo) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) is expressly authorized by a Union or Member State law which <b>also lays down suitable measures to safeguard the data subject's legitimate interests</b> ; or	(b) is expressly authorized by a Union or Member State law <b>and which protects the data subjects legitimate interests and protects against possible discrimination resulting from measures described in paragraph 1</b> ; or
Comment:	

Amendment 1576 (Lidia Joanna Geringer de Oedenberg) Article 20 – paragraph 2 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) is <b>expressly</b> authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or	(b) is authorized by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests; or
Comment: It is unclear how a law can implicitly authorize certain forms of data processing. This amendment leads, regardless of the addition, to a decrease in protection of citizens against profiling as may allows profiling on any law that doesn't prevent it.	

Amendment 1577 (Sophia in 't Veld) Article 20 – paragraph 2 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, <b>including effective protection against possible discrimination resulting from measures described in paragraph 1</b> .

Comment:

**Amendment 1578 (Alexander Alvaro)**  
**Article 20 – paragraph 2 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) is based on the <i>data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.</i>	(c) is based on the <i>grounds of Article 6 of this Regulation and is accompanied by a Union or Member State law which also lays down suitable measures to safeguard the data subject's legitimate interests.</i>

Comment: The amendments proposed by Mr Alvaro regarding profiling are not acceptable as they aim to give data controllers too much freedom to profile citizens. Mr Alvaro suggests in this amendment to allow profiling based on any of the legal grounds in article 6(1). Combined with the proposed changes to article 6, this would mean that profiling can (i) be based on legitimate interests and (ii) will always be legitimate provided that pseudonymized data are used. This will result in a strong decrease of the protection of citizens and a loss of control over the processing of one's personal data.

**Amendment 1579 (Wim van de Camp)**  
**Article 20 – paragraph 2 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) is <i>based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.</i>	(c) is <i>lawful pursuant to Article 6(1)(a) to (f) of this Regulation.</i>

Comment: This amendment is not acceptable as it gives data controllers too much freedom to profile citizens. The amendment suggests to allow profiling based on any of the legal grounds in article 6(1), which provides less protection than the Commissions proposal as it includes profiling based on legitimate interests of the data controller. Combined with other proposed changes to article 6, this would also mean that profiling will always be legitimate provided that pseudonymized data are used. Both changes will result in a steep decrease of the protection of citizens and a loss of control over the processing of one's personal data.

**Amendment 1580 (Joanna Senyszyn)**  
**Article 20 – paragraph 2 – point c**

<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, <i>including effective protection against possible discrimination resulting from measures described in paragraph 10.</i>

Comment:

Amendment 1581 (Dimitrios Droutsas) Article 20 – paragraph 2 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, <b><i>including effective protection against possible discrimination resulting from measures described in paragraph 1.</i></b>
Comment:	

Amendment 1582 (Josef Weidenholzer, Birgit Sippel) Article 20 – paragraph 2 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards. <b><i>The controller has to implement effective protection against possible discrimination resulting from measures described in paragraph 1. Such measures must be based on scientifically recognized mathematic-statistical procedures.</i></b>
Comment:	

Amendment 1583 (Sonia Alfano, Gianni Vattimo) Article 20 – paragraph 2 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards.	(c) is based on the data subject's consent, subject to the conditions laid down in Article 7 and to suitable safeguards, <b><i>including effective protection against possible discrimination resulting from measures described in paragraph 1.</i></b>
Comment:	

Amendment 1584 (Louis Michel) Article 20 – paragraph 2 – point c a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) is carried out in the purpose of monitoring and prevention of frauds; or</i>
Comment: This amendment widens the possibility of profiling for two vague and undefined reasons: 'monitoring' is not a purpose in itself and 'prevention of frauds' is equally wide. This can lead to profiling of citizens for widespread and undefined purposes.	

Amendment 1585 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier) Article 20 – paragraph 2 – point c a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) is limited to pseudonymised data. Such pseudonymised data must not be collated with data on the bearer of the pseudonym. Article 19(3a) shall apply correspondingly.</i>
Comment: This amendment is not acceptable as they aim to give data controllers too much freedom to profile citizens. This amendment states that profiling will always be legitimate provided that pseudonymized data are used. This will result in a strong decrease of the protection of citizens and a loss of control over the processing of one's personal data. This is not as the justification suggests, in line with the German Telemedia Act, which allows only service providers subject to this specific law to draw up user profiles for advertising or marketing. The pseudonymized data may never be collated with data on the bearer of the pseudonym. All these safeguards are lacking from this proposed amendment.	

Amendment 1586 (Louis Michel) Article 20 – paragraph 2 – point c b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(cb) is carried out based on well-founded suspicion of committing a crime to the detriment of the controller; or</i>
Comment: This amendment allows profiling in case of possible criminal activities. Research of crime should in the first place be left to competent authorities. Secondly, where necessary, Article 21 already provides exemptions from Article 20 when necessary for i.a. the prevention, investigation, detection and prosecution of criminal offences. Inserting an extra loophole without adequate safeguards will harm privacy protection.	

Amendment 1587 (Louis Michel) Article 20 – paragraph 2 – point c c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(cc) is carried out for the purpose of assessing risk and credit worthiness, assuring safety and reliability of services provided by a controller; or</i>

Comment:

**Amendment 1588 (Louis Michel)  
Article 20 – paragraph 2 – point c d (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(cd) is necessary to pursue controller's legitimate interest in accordance with Article 6(1)(ja); or</i>

Comment: The amendment suggests allowing profiling based on the legitimate interests of the data controller - without the data subjects consent. This leads to weaker data protection and does not justify the fact that profiling is an intrusive method of 'following' citizens and making decisions about their behaviour. Such processing should only be allowed on strict conditions.

**Amendment 1589 (Louis Michel)  
Article 20 – paragraph 2 – point c e (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ce) is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the personal data are disclosed; or</i>

Comment: The amendment extends the scope of profiling and creates a loophole. Profiling for the reasons as cited by this amendment is already included in article 21 as an exemption surrounded by safeguards.

**Amendment 1590 (Louis Michel)  
Article 20 – paragraph 2 – point c f (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(cf) is necessary for the purposes of the legitimate interests of the controller or the third party or parties to whom the profiles or data are disclosed, except where such interests are overridden by the fundamental rights and freedoms of the data subjects; or</i>

Comment: The amendment suggests allowing profiling based on the legitimate interests of the data controller or the interests of third parties - without the data subjects consent. This leads to weaker data protection and does not justify the fact that profiling is an intrusive method of 'following' citizens and making decisions about their behaviour. Such processing should only be allowed on strict conditions.



Amendment 1591 (Louis Michel) Article 20 – paragraph 2 – point c g (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(cg) is necessary in the vital interests of the data subject.</i>
<p>Comment: It is hard to imagine that automated processing in order to take decisions would at some point turn out to be necessary for the sole purpose of safeguarding vital interests. Article 20 contains a possible exemption, allowing profiling when necessary to protect the 'rights or freedoms of others'. The data subjects rights or freedoms can be perceived as others' (besides the data controllers) rights. The amendment is therefore unnecessary.</p>	

Amendment 1592 (Cornelia Ernst, Marie-Christine Vergiat) Article 20 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. Profiling that has the direct or indirect effect of discriminating against individuals on the basis of race or ethnic origin, socio-economic status, political opinions, religion or beliefs, trade union membership and activities, sexual orientation or gender identity, or that results in measures which have such effect, shall always be prohibited. Profiling in the employment context shall always be prohibited.</i>
<p>Comment: This is a good clarification.</p>	

Amendment 1593 (Sylvie Guillaume, Françoise Castex, Evelyn Regner) Article 20 - paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. In the employment sphere, the processing or use of data for the purposes of the permanent surveillance or profiling of employees, the drawing-up and dissemination of black lists of employees, the monitoring of performance or conduct or the preparation of a dismissal on grounds of illness shall be prohibited; job applicants' data shall enjoy the same protection.</i>
<p>Comment:</p>	

Amendment 1594 (Jens Rohde, Adina-Ioana Vălean) Article 20 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. <i>Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.</i>	<i>deleted</i>
Comment: This is a bad amendment allowing profiling based on sensitive data. Combined with the other amendments proposed by these MEPs, the protection against profiling of citizens is near-non-existent.	

Amendment 1595 (Sophia in't Veld) Article 20 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not <b>be based solely on</b> the special categories of personal data referred to in Article 9.	3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not <b>include or generate any data that fall under</b> the special categories of personal data referred to in Article 9, <b>without prejudice to the exceptions listed in Article 9(2).</b>
Comment: This is a good amendment providing extra protection against the risks of profiling based on or associated with sensitive data.	

Amendment 1596 (Cornelia Ernst) Article 20 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based <b>solely</b> on the special categories of personal data referred to in Article 9.	3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based on the special categories of personal data referred to in Article 9.
Comment: This is a good amendment, protecting citizens against profiling based on sensitive data, as it includes profiles that are partly build around these data.	

Amendment 1597 (Dimitrios Droutsas) Article 20 - paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. <i>Automated processing of personal data intended to evaluate certain personal aspects</i> relating to a natural person shall not be based <b>solely</b> on the special categories of personal data referred to in Article 9.	3. <b>Profiling activities</b> relating to a natural person shall not be based on the special categories of personal data referred to in Article 9.
Comment:	

<b>Amendment 1598 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier)</b> <b>Article 20 – paragraph 3</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.	3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9 <b><i>unless the data subject has given consent.</i></b>
Comment: If the prohibition could be lifted in the first place, this should only be allowed upon explicit consent. However such an addition would not be advisable as profiling based on sensitive data presents an inherent risk to discrimination, as sensitive data are sensitive for a reason.	

<b>Amendment 1599 (Josef Weidenholzer, Birgit Sippel)</b> <b>Article 20 – paragraph 3</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based <b><i>solely</i></b> on the special categories of personal data referred to in Article 9.	3. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based <b><i>primarily</i></b> on the special categories of personal data referred to in Article 9.
Comment: This is a good amendment, protecting citizens against profiling based on sensitive data, as it includes profiles that are partly build around these data.	

<b>Amendment 1600 (Sophia in't Veld)</b> <b>Article 20 – paragraph 3 a (new)</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
	<b><i>3a. Profiling on the basis of race or ethnic origin, political opinions, religion or beliefs, trade union membership, sexual orientation or gender identity that has a negative effect on individuals shall be prohibited.</i></b>
Comment: This is a partly good amendment. This amendment prohibits profiling based on sensitive data only when this has a negative effect. 'Negative effect' is hard to independently determine and thus not a good factor to determine whether something should be allowed or not. Profiling on sensitive data should remain prohibited regardless of the effect in practice. This is also advocated by MEP In 't Velds amendment 1595 which seems incompatible with this amendment.	

Amendment 1601 (Manfred Weber) Article 20 - paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>3a. Without prejudice to other provisions of criminal law at European and/or Member State level, the automated processing of personal data to create a movement profile is prohibited.</i>
Comment:	

Amendment 1602 (Cornelia Ernst, Marie-Christine Vergiat) Article 20 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>3a. Credit rating data and/or profiling procedures in connection with the conclusion of contracts may be used only when a specially high risk of default can be demonstrated.</i></p> <p><i>In predicting the risk of default, only personal data that is genuinely relevant to the person’s credit rating, such as payment problems or insolvency data, may be used.</i></p> <p><i>Where scoring methods are used, these must lead to scientifically watertight conclusions.</i></p> <p><i>The provider and requester of credit rating data must act in a transparent manner. Consumers should be informed about the data used, the deployment of scoring methods, etc. Credit rating data must be correct and up to date.</i></p> <p><i>Health data may not be used for scoring purposes.</i></p>
Comment: This is a good clarification of situations where processing takes place in the course of contractual performance.	

Amendment 1603 (Anna Maria Corazza Bildt, Sabine Verheyen, Mariya Gabriel, Kinga Gál, Axel Voss) Article 20 - paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>3a. In any case, children should not be subject to measures of profiling, as referred to in paragraph 1.</i>
Comment:	

Amendment 1604 (Jens Rohde, Adina-Ioana Vălean) Article 20 - paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. <i>In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.</i>	<i>deleted</i>
Comment:	

Amendment 1605 (Alexander Alvaro) Article 20 - paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. <i>In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.</i>	4. The information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on <i>the data subject as well as the result of the data protection risk analysis referred to in Article 33 as far as it concerns</i> the data subject.
Comment:	

Amendment 1606 (Agustín Díaz de Mera García Consuegra) Article 20 - paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>3a. Automated processing of personal data intended to evaluate certain personal aspects relating to a natural person shall not be based solely on the special categories of personal data referred to in Article 9.</i>
Comment:	

Amendment 1607 (Stanimir Ilchev) Article 20 - paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. In the cases referred to in paragraph 2, <i>the information to be provided by the controller under Article 14 shall include information as to</i> the existence of processing for <i>a measure</i> of the kind referred to in paragraph 1 and the envisaged effects of	4. In the cases referred to in paragraph 2, <i>each</i> controller shall <i>notify the data subject separately without delay of</i> the existence of processing for <i>measures</i> of the kind referred to in paragraph 1 and the envisaged effects of such processing on

such processing on the data subject.	the data subject
Comment:	

Amendment 1608 (Timothy Kirkhope) Article 20 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 <b>and the envisaged effects of such processing on the data subject.</b>	4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1.
Comment: Providing data subjects with less information regarding profiling hurts the balance between data controller and data subject as a data subject will not be adequately informed and thus unaware of the effects of profiling.	

Amendment 1609 (Jacek Protasiewicz, Rafał Trzaskowski, Arkadiusz Tomasz Bratkowski) Article 20 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. In the cases referred to in paragraph 2, the information to be provided by the controller under <b>Article</b> 14 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject.	4. In the cases referred to in paragraph 2, the information to be provided by the controller under <b>Articles</b> 14 <b>and</b> 15 shall include information as to the existence of processing for a measure of the kind referred to in paragraph 1, <b>including the criteria for the processing in question</b> and the envisaged effects of such processing on the data subject.
Comment:	

Amendment 1610 (Louis Michel) Article 20 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a <b>measure</b> of the kind referred to in paragraph 1 <b>and the envisaged effects of such processing on the data subject.</b>	4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of processing for a <b>decision</b> of the kind referred to in paragraph 1.
Comment: Providing data subjects with less information regarding profiling hurts the balance between data controller and data subject as a data subject will not be adequately informed and thus unaware of the effects of profiling. Also, 'decision' seems narrower than 'measure' and therefore a decrease in protection.	

Amendment 1611 (Josef Weidenholzer, Birgit Sippel) Article 20 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of <b>processing for</b> a measure of the kind referred to in paragraph 1 and the envisaged effects of such processing on the data subject	4. In the cases referred to in paragraph 2, the information to be provided by the controller under Article 14 shall include information as to the existence of a measure of the kind referred to in paragraph 1, <b>meaningful information about the logic used</b> and the envisaged effects of such processing on the data subject.
Comment: This is a good addition.	

Amendment 1612 (Alexander Alvaro) Article 20 - paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.</b>	<i>deleted</i>
Comment:	

Amendment 1613 (Jens Rohde, Adina-Ioana Vălean) Article 20 - paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.</b>	<i>deleted</i>
Comment:	

Amendment 1614 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio) Article 20 - paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the</b>	<i>deleted</i>

<i>data subject's legitimate interests referred to in paragraph 2.</i>	
Comment:	

Amendment 1615 (Louis Michel) Article 20 - paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.</i>	<i>deleted</i>
Comment:	

Amendment 1616 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Monika Hohlmeier) Article 20 - paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.</i>	<i>deleted</i>
Comment:	

Amendment 1617 (Sophia in't Veld) Article 20 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and conditions for suitable measures to safeguard the data subject's legitimate interests referred to in paragraph 2.</i>	<i>5. The European Data Protection Board shall be entrusted with the task of further specifying the criteria and conditions for suitable measures to safeguard the data subject's <b>fundamental rights regarding the provisions of this Article, and the</b> legitimate interests referred to in paragraph 2.</i>
Comment:	



Amendment 1618 (Birgit Sippel, Petra Kammerevert, Josef Weidenholzer) Article 20 - paragraph 5 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>5a. In case of a child, profiling shall never be allowed, regardless of a possible consent given by the child's parent or legal representative.</i>
Comment:	

Amendment 1619 (Monika Hohlmeier, Axel Voss) Article 21 – title	
<i>Commission Proposal</i>	<i>Amendment</i>
Restrictions	<i>Extensions and restrictions</i>

Amendment 1620 (Alexander Alvaro) Article 21 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to <b>20</b> and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law may restrict <b>or extend</b> by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to <b>19</b> and Article 32, when such a restriction <b>or extension</b> constitutes a necessary and proportionate measure in a democratic society to safeguard:
Comments: It is important for profiling not to be part of this article.	

Amendment 1621 (Cornelia Ernst) Article 21 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided <b>for</b> in points (a) to (e) of Article 5 and Articles 11 to <b>20</b> and Article 32, <b>when such a restriction constitutes a necessary and proportionate measure in a democratic society</b> to safeguard:	1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided in points (c) <b>and</b> (e) of Article 5 and Articles 11 to <b>13 and 15 to 19, Article 20, paragraph 1, 2 and 4</b> and Article 32, <b>provided that it meets a clearly defined objective of public interest, respects the essence of the right to protection of personal data, is proportionate to the legitimate aim pursued and respects the fundamental rights and interests of the data subject in order</b> to safeguard:
Comments: Those are good safeguards. It is good to remove article 14, however it is bad that article 20 is still there.	

Amendment 1622 (Dimitrios Droutsas)  
Article 21 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights <b><i>provided for in points (a) to (e) of Article 5 and</i></b> Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights <b><i>in</i></b> Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:
Comments: It is good that article 5 is removed, but bad that article 20 is still there.	

Amendment 1623 (Josef Weidenholzer, Birgit Sippel)  
Article 21 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. Union <b><i>or Member State</i></b> law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:
Comments: the idea is good, but it leaves the rest of the text unimproved (specifically Article 20, which should be removed from this Article). It also seems difficult to achieve politically.	

Amendment 1624 (Monika Hohlmeier, Axel Voss)  
Article 21 – paragraph 1 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:	1. Union or Member State law may <b><i>extend or</i></b> restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such <b><i>an extension or</i></b> restriction constitutes a necessary and proportionate measure in a democratic society to safeguard:
Comments: The idea is good, but it leaves the rest of the text unimproved, specifically Article 20, which should be removed from this Article.	

Amendment 1625 (Jens Rohde, Adina-Ioana Vălean)  
Article 21 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>Ia. Parties on the labour market may restrict by way of a legislative measure the scope of the obligations and rights provided for in points (a) to</i></b>

	<i>(e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction have been agreed by national collective agreements to constitutes a necessary and proportionate measure.</i>
Comments: It is clearly inappropriate to foresee the possibility for workers to negotiate away their fundamental rights.	

<b>Amendment 1626 (Monika Hohlmeier, Axel Voss)</b> Article 21 – paragraph 1 – point a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(aa) national security;</i>
Comments: this duplicates article 2, creating legal uncertainty.	

<b>Amendment 1627 (Monika Hohlmeier, Axel Voss)</b> Article 21 – paragraph 1 – point a b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ab) defence;</i>
Comments: This appears to duplicate article 2, creating legal uncertainty.	

<b>Amendment 1628 (Jan Mulder)</b> Article 21 – paragraph 1 – point a a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(aa) national security;</i>
Comments: This duplicate article 2, creating legal uncertainty.	

<b>Amendment 1629 (Cornelia Ernst, Marie-Christine Vergiat)</b> Article 21 – paragraph 1 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) the prevention, investigation, detection and prosecution of criminal offences;	(b) the prevention, investigation, detection and prosecution of <i>specific</i> criminal offences;
Comments: Narrowing the scope is good.	

<b>Amendment 1630 (Monika Hohlmeier, Axel Voss)</b> Article 21 – paragraph 1 – point b a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) in cases where pseudonymised data is used;</i>
Pseudonymous data are – by definition – personal data. It is therefore obviously contrary to the very	

essence the purpose Regulation – both for fundamental rights and harmonisation - to permit them to be subject to a broad national exception.

**Amendment 1631 (Wim van de Camp)**  
**Article 21 – paragraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>(ba) national security;</b>
Comments: This appears to duplicate article 2, creating legal uncertainty.	

**Amendment 1632 (Alexander Alvaro)**  
**Article 21 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) <b>other public interests of the Union or of a Member State, in particular</b> an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;	(c) an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;
Comments: The term "other public interests" is too vague.	

**Amendment 1633 (Cornelia Ernst)**  
**Article 21 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) other public interests of the Union or of a Member State, in particular <b>an important economic or financial interest of the Union or of a Member State, including</b> monetary, budgetary and taxation matters <b>and the protection of market stability and integrity;</b>	(c) other <b>substantial</b> public interests of the Union or of a Member State, in particular <b>in relation to important</b> monetary, budgetary and taxation matters;
Comments: Restricting the scope is of Article 21 is positive.	

**Amendment 1634 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 21 – paragraph 1 – point c**

<i>Commission Proposal</i>	<i>Amendment</i>
(c) other public interests of the Union or of a Member State, <b>in particular</b> an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;	(c) other public interests of the Union or of a Member State, <b>such as</b> an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;
Comments: This amendment is dangerously vague.	

Amendment 1635 (Timothy Kirkhope)  
Article 21 – paragraph 1 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) other public interests of the Union or of a Member State, <b><i>in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity;</i></b>	(c) other public interests of the Union or of a Member State;
Comments: This amendment is dangerously vague.	

Amendment 1636 (Dimitrios Droutsas)  
Article 21 – paragraph 1 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters <b><i>and the protection of market stability and integrity;</i></b>	(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters;
Comments: This is a good restriction.	

Amendment 1637 (Sarah Ludford)  
Article 21 – paragraph 1 – point c

<i>Commission Proposal</i>	<i>Amendment</i>
(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, <b><i>including monetary, budgetary and taxation matters and the protection of market stability and integrity;</i></b>	(c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State;
Comments: While removing market stability and integrity is positive, removing all of the examples leaves the text open to too many possible interpretations.	

Amendment 1638 (Josef Weidenholzer)  
Article 21 – paragraph 1 – point d

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;</i></b>	<b><i>deleted</i></b>
Comments: There are sufficient exceptions elsewhere in the Regulation.	

Amendment 1639 (Timothy Kirkhope) Article 21 – paragraph 1 – point d a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(da) the protection of international relations;</i>
Comments: It is not remotely clear what this means, nor what specific national law could be introduced to exempt a country from parts of the regulation to achieve this aim.	

Amendment 1640 (Josef Weidenholzer) Article 21 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d);</i>	<i>deleted</i>
Comments: There are enough exceptions elsewhere in the Regulation that would cover such activities.	

Amendment 1641 (Cornelia Ernst, Marie-Christine Vergiat) Article 21 – paragraph 1 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d);</i>	<i>(e) a monitoring, inspection or regulatory function <b>in the framework of</b> the exercise of <b>a competent public</b> authority in cases referred to in (a), (b), (c) and (d);</i>
Comment: This is a helpful clarification.	

Amendment 1642 (Josef Weidenholzer) Article 21 – paragraph 1 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(f) the protection of the data subject or the rights and freedoms of others.</i>	<i>deleted</i>
Comments: This is a very important amendment. The alternative is creating an open-ended exception for any sort of policing activity – either public or private.	

Amendment 1643 (Sarah Ludford) Article 21 – paragraph 1 – point f a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(fa) legal professional privilege and lawyer-client confidentiality.</i>

Comment: This amendment would have the opposite effect from the one described in the justification. Giving Member States the option to create exceptions for such professions will lead to reduced protections and not increases in protection. Furthermore, lawyer-client confidentiality (similarly, doctor-patient confidentiality) will not be affected by the Regulation and so has no place here.

**Amendment 1644 (Csaba Sógor)**  
**Article 21 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing <b>and</b> the determination of the controller.	2. In particular, any legislative measure referred to in paragraph 1 <b>must be necessary and proportionate in the information society and</b> shall contain specific provisions at least as to: <ul style="list-style-type: none"> <li>(a) the objectives to be pursued by the processing;</li> <li>(b) the determination of the controller;</li> <li>(c) <b>the specific purposes and means of processing;</b></li> <li>(d) <b>the categories of persons authorised to process the data;</b></li> <li>(e) <b>the procedure to be followed for the processing;</b></li> <li>(f) <b>the safeguards to prevent abuse;</b></li> <li>(g) <b>the right of data subjects to be informed about the restriction.</b></li> </ul>

Comments: The amendment is very comprehensive and takes in all of the good elements of the other texts proposed by other MEPs.

**Amendment 1645 (Alexander Alvaro)**  
**Article 21 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the <b>objectives</b> to be pursued by the processing and the determination of the controller.	2. In particular, any legislative measure referred to in paragraph 1 <b>shall comply with the standards of necessity and proportionality in accordance with Article 1 and</b> shall contain specific provisions at least as to the <b>purposes</b> to be pursued by the processing and the determination of the controller.

**Amendment 1646 (Monika Hohlmeier)**  
**Article 21 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the <b>objectives</b> to be pursued by the processing	2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the <b>purposes</b> to be pursued by the processing

and the determination of the controller.	and the determination of the controller.
Comments: The text is more vague than the original and would undermine legal clarity.	

Amendment 1647 (Adina-Ioana Vălean, Jens Rohde) Article 21 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the <b>objectives</b> to be pursued by the processing and the determination of the controller.	2. In particular, any legislative measure referred to in paragraph 1 shall <b>comply with the standards of necessity and proportionality in accordance with Article 1 and shall</b> contain specific provisions at least as to the <b>purposes</b> to be pursued by the processing and the determination of the controller.
Comments: It is too unclear what it would mean in practice. Secondly purpose is vaguer than objective.	

Amendment 1648 (Dimitrios Droutsas) Article 21 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing <b>and</b> the determination of the controller.	2. In particular, any legislative measure referred to in paragraph 1 <b>must be necessary and proportionate in a democratic society and</b> shall contain specific provisions at least as to: <ul style="list-style-type: none"> <li>(a) the objectives to be pursued by the processing;</li> <li>(b) the determination of the controller;</li> <li>(c) <b>the specific purposes and means of processing;</b></li> <li>(d) <b>the categories of persons authorised to process the data;</b></li> <li>(e) <b>the procedure to be followed for the processing;</b></li> <li>(f) <b>the safeguards to prevent abuse;</b></li> <li>(g) <b>the right of data subjects to be informed about the restriction.</b></li> </ul>
Comments: See comments on Amendment 1644	

Amendment 1649 (Cornelia Ernst, Marie-Christine Vergiat) Article 21 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. <b>In particular,</b> any legislative measure referred to in paragraph 1 shall contain specific provisions <b>at least</b> as to the objectives to be pursued by the processing <b>and the determination of the</b> controller.	2. Any legislative measure referred to in paragraph 1 shall contain specific provisions as to the objectives to be pursued by the processing, <b>the categories of personal data processed, the specific means and purposes of processing, the categories of persons entitled to process the data, the designation of the</b>



	controller, <i>and the safeguards against unlawful access or transfer of data.</i>
Comments: As this article creates the potential for weakening of data protection by individual Member States, it is important for any such legislative measure to be as narrowly circumscribed and as clear as possible. However, for purposes of clarity, we prefer the wording in Amendment 1644 and 1648.	

Amendment 1650 (Louis Michel) Article 21 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. Articles 11 to 20 shall not apply where the processing of personal data is necessary to enable the controller to comply with other legal, regulatory and professional obligations especially in respect of prevention of money laundering and/or terrorist financing.</i>
Comments: This amendment is exceptionally and unnecessarily broad. It appears to cover activities that are already completely covered by Article 6.1.c. Consequently, the provision creates no added value but does risk creating legal uncertainty.	

Amendment 1651 (Sonia Alfano, Gianni Vattimo) Article 21 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. Legislative measures referred to in paragraph 1 shall neither permit or oblige private controllers to retain data additional to those strictly necessary for the original purpose.</i>
Comment: This is a useful clarification.	

Amendment 1652 (Cornelia Ernst, Marie-Christine Vergiat) Article 21 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. Any such legislative measure shall contain the requirement to inform the data subject of the restriction of their right and of the possibility to obtain indirect access through the national data protection supervisory authority.</i>
Comment: The information right is helpful, although the second half of the amendment is not very clear. Please see our suggested amendment here ( <a href="http://bit.ly/RCohpr">http://bit.ly/RCohpr</a> )	

Amendment 1710 (Alexander Alvaro)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
<p>1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.</p>	<p><b><i>1. Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as</i></b> having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.</p> <p><b><i>Data protection by design shall have particular regard to the entire lifecycle management of personal data from collection to processing to deletion, systematically focusing on comprehensive procedural safeguards regarding the accuracy, confidentiality, integrity, physical security and deletion of personal data.</i></b></p>
<p>Comment: We dismiss the context and risk approach introduced by Mr. Alvaro. We therefore also dismiss tying these references to privacy by design and by default.</p>	

Amendment 1711 (Axel Voss)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
<p>1. Having regard to the state of the art <b><i>and</i></b> the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate <b><i>technical and organisational</i></b> measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.</p>	<p><b><i>1. Having regard to the state of the art, the cost of implementation and international best practices, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.</i></b></p> <p><b><i>Notwithstanding, the controller should only be burdened with measures that are proportionate to the risk of data processing reflected by the nature of the personal data to be processed.</i></b></p>
<p>Comment: Framing data protection by design and default as a “burden” to industry is unhelpful and would impede the adoption of these practices, undermining the purpose of Article 23. Furthermore, we dismiss the context and risk approach and therefore also dismiss tying these references to privacy by design and by default.</p>	

Amendment 1712 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement technical and organisational measures and procedures <b>appropriate to the activities and their purposes</b> , in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: Article 23 requires further definition and strengthening (see: <a href="http://bit.ly/YxcDQd">http://bit.ly/YxcDQd</a> ) – this amendment would weaken the obligation on controllers, undermining the effectiveness of privacy by design and by default.	

Amendment 1713 (Jan Philipp Albrecht)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. 1. Having regard to the state of the art and the <b>cost of implementation, the controller</b> shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the state of the art, <b>the controller and the processor, if any</b> , shall, both at the time of the determination of the <b>purposes and</b> means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, <b>in particular with regard to the principles laid out in Article 5. Where the controller has carried out a data protection impact assessment pursuant to Article 33, the results shall be taken into account when developing those measures and procedures.</b>
Comment: We welcome the addition of processors – and the helpful clarifications to Article 5 and Article 33 – these work to strengthen privacy by design and by default.	

Amendment 1714 (Joanna Senyszyn)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will	1. Having regard to the state of the art and the cost of implementation, the controller <b>after carrying out a data protection impact assessment in accordance with the provisions adopted pursuant to Article 33 of this Regulation</b> shall, both at the time of the determination of the means for processing and at the

meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: The reference to Article 33 is a welcome addition as it strengthens this provision.	

Amendment 1715 (Adina-Ioana Vălean, Jens Rohde) Article 23 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art <b>and</b> the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate <b>technical and organisational</b> measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the state of the art, the cost of implementation <b>and international best practices</b> , the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: As it is not clear which international best practices this may be referring to, this undermines legal clarity and weakens data protection by design and by default.	

Amendment 1716 (Cornelia Ernst, Marie-Christine Vergiat) Article 23 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art <b>and the cost of implementation</b> , the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the state of the art, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: Removing the cost element could possibly strengthen the obligation on controllers, but it would be preferable to strengthen this provision in other ways such as referring to a data protection impact assessment or other specific measures.	

Amendment 1717 (Ewald Stadler)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to <b><i>the risk, the type of data requiring protection</i></b> , the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: We dismiss the context and risk approach and therefore also dismiss tying these references to privacy by design and by default.	

Amendment 1718 (Lidia Joanna Geringer de Oedenberg)  
Article 23 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. Having regard to the state of the art <b><i>and the cost of implementation</i></b> , the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.	1. Having regard to the <b><i>latest technological developments, the cost of their implementation and the current</i></b> state of the art, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
Comment: The “state of the art” refers not only to technological solutions but also international best practices on the protection of privacy by design, therefore this article could be improved by keeping the Commission's formulation.	

Amendment 1719 (Alexander Alvaro, Jürgen Creutzmann)  
Article 23 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1a. In order to foster its widespread implementation in different economic sectors, data protection by design shall be a prerequisite for public procurement tenders according to the Directive of the European Parliament and of the Council on public procurement as well as according to the Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sector</i></b>

	<i>(Utilities Directive).</i>
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Comment: While we support the widespread adoption of privacy by design, Article 23 is intended for data controllers, which would already include various economic sectors.

**Amendment 1720 (Csaba Sógor)**  
**Article 23 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. <b>The</b> controller shall <b>implement mechanisms for ensuring</b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.	2. <b>Where the data subject is given a choice regarding the processing of personal data, the</b> controller shall <b>ensure</b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals <b>and that information in the form of a request for consent regarding the distribution of personal data will be obtained.</b>

Comment: Limiting this obligation to the choice regarding the processing of personal data overlooks the fact that regardless of the legal basis for the processing of personal data, the principles of data minimization and purposes limitation apply in every situation. The principle of privacy by default should therefore apply in all circumstances and not only in situations where a data subject has a 'choice'.

**Amendment 1721 (Alexander Alvaro)**  
**Article 23 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.	2. <b>Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as having regard to the state of the art and the cost of implementation,</b> the controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected, <b>disseminated</b> or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.

Comment: We dismiss the context and risk approach and therefore also dismiss tying these references to privacy by design and by default.

**Amendment 1722 (Ioan Enciu)**  
**Article 23 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall <b>implement mechanisms for ensuring</b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected <b>or retained</b> beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to <b>an indefinite number of individuals</b> .	2. The controller shall <b>ensure</b> that, by default, only those personal data are processed which are <b>strictly</b> necessary for each specific purpose of the processing and are especially not collected, <b>retained or processed</b> beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to <b>other individuals and that data subjects are able to control the distribution of their personal data pseudonymisation shall be used where possible</b> .

Comment: This is a helpful clarification and the emphasis on controlling the distribution of their data strengthens the rights of the data subject.

**Amendment 1723 (Axel Voss)**  
**Article 23 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. <b>The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.</b>	2. <b>Such measures and procedures shall:</b> <b>(a) take due account of existing technical standards and regulations in the area of public safety and security</b> <b>(b) follow the principle of technology, service and business model neutrality</b> <b>(c) be based on global industry-led efforts and standards</b> <b>(d) take due account of international developments.</b>

Comment: These additions are vague and undermine legal clarity. Furthermore, it weakens the obligation to implement concrete measures and opts rather for a more self-regulatory approach which is not sufficient to ensure the implementation of approaches that protect privacy by design and by default.

Amendment 1724 (Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio)  
Article 23 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are <b>necessary</b> for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary <b>for</b> those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.	2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are <b>not excessive</b> for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary <b>in proportion to</b> those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.
Comment: This weakens the principle of privacy by default as well as the principle of data minimization.	

Amendment 1725 (Jan Philipp Albrecht)  
Article 23 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. The controller <b>shall implement mechanisms for ensuring</b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.	2. <b>Where the data subject is given a choice regarding the processing of personal data</b> , the controller <b>and the processor, if any, shall ensure</b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals <b>and that data subjects are able to control the distribution of their personal data</b> .
Comment: Limiting this obligation to the choice regarding the processing of personal data overlooks the fact that regardless of the legal basis for the processing of personal data, the principles of data minimization and purposes limitation apply in every situation. The principle of privacy by default should therefore apply in all circumstances and not only in situations where a data subject has a 'choice'.	

Amendment 1726 (Adina-Ioana Vălean, Jens Rohde)  
Article 23 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
2. <b>The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not</b>	2. <b>Such measures and procedures shall:</b> <b>(a) take due account of existing technical standards and regulations in the area of public</b>



<p><i>collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.</i></p>	<p><b>safety and security;</b>  <b>(b) follow the principle of technology, service and business model neutrality;</b>  <b>(c) be based on global industry-led efforts and standards;</b>  <b>(d) take due account of international developments.</b></p>
<p>Comment: These additions are vague and undermine legal clarity. Furthermore, it weakens the obligation to implement concrete measures and opts rather for a more self-regulatory approach which is not sufficient to ensure the implementation of approaches that protect privacy by design and by default.</p>	

<p><b>Amendment 1727 (Dimitrios Droutsas)</b>  <b>Article 23 – paragraph 2</b></p>	
<p><b><i>Commission Proposal</i></b></p>	<p><b><i>Amendment</i></b></p>
<p>2. The controller shall <b><i>implement mechanisms for ensuring</i></b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.</p>	<p>2. The controller shall <b><i>ensure</i></b> that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals <b><i>and that data subjects are able to control the distribution of their personal data; pseudonymisation shall be used where possible.</i></b></p>
<p>Comment: This is a helpful clarification and the emphasis on controlling the distribution of their data strengthens the rights of the data subject.</p>	

<p><b>Amendment 1728 (Bernd Lange)</b>  <b>Article 23 – paragraph 2</b></p>	
<p><b><i>Commission Proposal</i></b></p>	<p><b><i>Amendment</i></b></p>
<p>2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.</p>	<p>2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals. <b><i>This sentence 1 shall not apply with regard to the processing of data the purpose of which is the fulfilment of statutory obligations and/or which is in the public interest, insofar as such obligation or task is aimed at the</i></b></p>

	<i>best possible completeness of a data base. This in particular applies to telecommunications subscriber directories.</i>
<p>Comment: Excluding data processing that takes place in the course of fulfilment of statutory obligations or when serving the public interest severely damages this provision. Regardless of the legal ground for processing or the purposes served by the processing, the principles of data minimization and purposes limitation apply in every situation. Statutory obligations should always be fulfilled with the lowest possible amounts of data. Telecommunications subscriber directories are a good example of this; such a directory only lists the name and telephone number of a subscriber, provided that the subscriber has not opted out. The telephone company should not be allowed to collect extra data besides the information needed for the listing. This is an example of data minimization.</p>	

<b>Amendment 1729 (Alexander Alvaro)</b> <b>Article 23 – paragraph 2 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. Having regard to the contexts of and the risks represented by the data processing as laid down under Articles 5a and 5b, as well as having regard to the state of the art and the cost of implementation, the controller shall endeavour to implement by default data protection enhancing technologies.</i>
<p>Comment: We dismiss the context and risk approach proposed by Mr. Alvaro and therefore also dismiss tying these references to privacy by design and by default.</p>	

<b>Amendment 1730 (Adina-Ioana Vălean, Jens Rohde)</b> <b>Article 23 – paragraph 2 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>2a. In implementing the provisions of this Regulation, it shall be ensured that no mandatory requirements for specific technical features are imposed on products and services, including terminal or other electronic communications equipment, which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.</i>
<p>Comment: Any potential of the establishment of technical standards are dealt with in paragraph (4) and can therefore be deleted, leaving no need to reiterate it here.</p>	

Amendment 1731 (Josef Weidenholzer)  
Article 23 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>2a. Products and services which are distributed in the EEA and inherently used to also process personal data shall be designed to enable controllers and processors, including controllers and processors which fall under Article 2(2)(d), to use them in compliance with this regulation.</b></p> <p><b>Products and services which are especially customized for distribution in the EEA shall additionally be set to default settings in compliance with paragraph 2, if reasonable possible.</b></p> <p><b>This duty applies to manufacturers of finished products and providers of services. Any person who, by putting his name, trade mark or other distinguishing feature on the product or service presents himself as its manufacturer, shall be deemed to be the manufacturer.</b></p> <p><b>If the manufacture cannot be determined or held accountable, this duty also applies to the person who imported products into the EEA for distribution in the course of his business or distributes such services in the EEA.</b></p>
<p>Comment: Prescribing rules for products and services distributed in the EEA does not seem to add any value, and in fact adds unnecessary complexity, since this would be the case for compliance with Article 23 anyway.</p>	

Amendment 1947 (Petru Constantin Luhan) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
<p>1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</p>	<p>1. In the case of a personal data breach, <b>when the breach is likely to adversely affect the protection of the personal data or privacy of the data subject</b>, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</p>
<p>Comments: Different controllers will define ‘adversely’ in different ways, and it is in a controller’s interest to underplay the impact of a breach on data subjects for reputational and other reasons. Authorities on the other hand will apply objectively uniform criteria across the board.</p>	

Amendment 1948 (Alexander Alvaro) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay <b><i>and, where feasible, not later than 24 hours after having become aware of it</i></b> , notify the personal data breach to the supervisory authority. <b><i>The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. In the case of a personal data breach, the controller shall without undue delay notify the personal data breach to the supervisory authority.

Amendment 1949 (Jan Mulder) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay and, <b><i>where feasible, not later than 24 hours</i></b> after having become aware of it, notify the personal data breach to the supervisory authority. <b><i>The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. In the case of a personal data breach, the controller shall without undue delay and <b><i>as soon as possible</i></b> , after having become aware of it, notify the personal data breach to the supervisory authority <b><i>in the member state where the controller is established.</i></b>

Amendment 1950 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendmen</i>
1. In the case of a personal data breach, <b><i>the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. In the case of a personal data breach <b><i>such as to constitute a serious risk to personal data privacy, the controller shall without undue delay notify the personal data breach</i></b> to the supervisory authority.
Comments: see comment on Amendment 1947 - same issue re ‘serious risk’	

Amendment 1951 (Michèle Striffler) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.	1. In the case of a <b>major</b> personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.
Comments: It is not clear how the quantitative and qualitative criteria would be established. A supervisory authority can have such criteria and apply them systematically across the board - once criteria established it's not such an administrative burden.	

Amendment 1952 (Nils Torvalds) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.	1. In the case of a personal data breach <b>which is likely to adversely affect the data subject and the protection of the personal data of the data subject</b> , the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.
Comments: see comment on AM 1947 .	

Amendment 1953 (Wim van de Camp) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. <b><i>In the case of</i></b> a personal data breach, <b><i>the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. <b><i>Where</i></b> a personal data breach <b><i>is likely to have a significant adverse effect on the interests, rights and freedoms of the data subjects, especially their right to privacy, the controller, after having become aware of it, shall without unreasonable delay notify the personal data breach to the supervisory authority.</i></b>
Comments: This is an extremely bad amendment. The risk assessment described here will actually add to the burdens of controllers and authorities who will have to issue guidance, etc. The original wording is simpler and more objective.	

Amendment 1954 (Dimitrios Droutsas) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than <b>24 hours</b> after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within <b>24 hours</b> .	1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than <b>72 hours</b> after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within <b>72 hours</b> .

Amendment 1955 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, <i>the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i>	1. In the case of a personal data breach, <i>when the breach is likely to adversely affect the protection of the personal data or the privacy of the data subject, the controller shall without undue delay notify the personal data breach to the supervisory authority.</i>
Comments: Different controllers will define ‘adversely’ in different ways, and it is in a controller’s interest to underplay the impact of a breach on data subjects for reputational and other reasons. Authorities on the other hand will apply objectively uniform criteria across the board.	

Amendment 1956 (Louis Michel) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, <i>the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i>	1. In the case of a personal data breach <i>which causes or is likely to cause significant adverse effect on the privacy of the data subject, the controller shall after having become aware, fully investigated and confirmed it, without undue delay, notify the personal data breach to the supervisory authority.</i>
Comments: This is an extremely bad amendment. The risk assessment described here will actually add to the burdens of controllers and authorities who will have to issue guidance, etc. The original wording is simpler and more objective.	

Amendment 1957 (Axel Voss, Monika Hohlmeier, Seán Kelly, Renate Sommer, Véronique Mathieu Houillon, Lara Comi, Hubert Pirker, Salvatore Iacolino) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, <b><i>the controller shall without undue delay and, where feasible, not later than 24 hours after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. In the case of a personal data breach <b><i>relating to special categories of personal data, personal data which are subject to professional secrecy, personal data relating to criminal offences or to the suspicion of a criminal act or personal data relating to bank or credit card accounts, which seriously threaten the rights or legitimate interests of the data subject, the controller shall without undue delay notify the personal data breach to the supervisory authority.</i></b>
Comments: This is a very bad proposal, as it limits the breach notification to only a narrow, albeit serious, set of circumstances. In fact any data breach can result in severe consequences as the data breached can be connected with other readily available data to create very serious effects.	

Amendment 1958 (Timothy Kirkhope) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than <b><i>24 hours</i></b> after having become aware of it, notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within <b><i>24 hours</i></b> .	1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than <b><i>10 working days</i></b> after having become aware of it, <b><i>or when sufficient and conclusive information regarding the data breach can be obtained, shall</i></b> notify the personal data breach to the supervisory authority. The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within <b><i>10 working days</i></b> .
Comments: A lot of damage can be done in the timescales described - there is no logical reason for such delays. 24 hours may not be feasible, but the supposed extension is not supported.	

Amendment 1959 (Sarah Ludford) Proposal for a regulation  
Article 31 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. In the case of a personal data breach, <b><i>the controller shall without undue delay and, where feasible, not later than 24 hours</i></b> after having become aware of it, notify the personal data breach to the supervisory authority. <b><i>The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.</i></b>	1. In the case of a personal data breach <b><i>where there is a significant risk that the personal data breach will adversely affect the rights and freedoms of data subjects, the controller shall without undue delay</i></b> after having become aware of it, notify the personal data breach to the supervisory authority.

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Amendment 1960 (Wim van de Camp) Proposal for a regulation  
Article 31 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.</i>

Amendment 1961 (Michèle Striffler) Proposal for a regulation  
Article 31 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. The controller shall keep a list of minor breaches and make that list available to the supervisory authority.</i>
Comments: See above - who decides criteria?	

Amendment 1962 (Axel Voss) Proposal for a regulation  
Article 31 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.</i>	<i>2. The processor shall alert and inform the controller immediately after the establishment of a personal data breach.</i>

Amendment 1963 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation  
Article 31 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.</i>	<i>2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach <b>as referred to in paragraph 1.</b></i>



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**Amendment 1964 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation  
Article 31 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller <b><i>immediately</i></b> after the <b><i>establishment</i></b> of a personal data breach.	2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller <b><i>without undue delay</i></b> after the <b><i>identification</i></b> of a personal data breach <b><i>that is likely to produce adverse legal effects to the protection of the personal data or the privacy of the data subject.</i></b>

Comments: This amendment implies that it is the processor, rather than the controller, who decides whether the data breach is likely to produce adverse effects; the self-interest of the processor to underplay the adverse effects is even stronger than that of the controller. Also, the controller is the responsible party for the data processing, regardless of the fact whether he uses a processor. The controller should therefore always be informed about any data breach taking place under its responsibility.

**Amendment 1965 (Timothy Kirkhope) Proposal for a regulation  
Article 31 – paragraph 2**

<i>Commission Proposal</i>	<i>Amendment</i>
2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller <b><i>immediately</i></b> after the establishment of a personal data breach.	2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller <b><i>as a matter of urgency</i></b> after the establishment of a personal data breach.

**Amendment 1966 (Jan Mulder) Proposal for a regulation  
Article 31 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Controllers shall notify the supervisory authority of the Member State in which they are established. Where the notification is carried out in accordance with paragraph 4, the supervisory authority of the Member State in which the controller responsible for the personal data breach is established shall be notified. Controllers which are not established on the territory of the European Union, shall notify the supervisory authority of the Member State in which their representative is established.</i></b>

Amendment 1967 (Sarah Ludford) Proposal for a regulation  
Article 31 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. In making the risk assessment, the controller should be required to have regard to factors including the nature of the data; whether the breach appears to be likely to cause substantial damage or substantial distress to the data subject or is otherwise likely to significantly prejudice the rights and freedoms of the data subject and the degree to which those risks are mitigated by the security measures which the controller has taken pursuant to Article 30.</i></b>
Comments: It is far more effective for the authority to have one set of criteria apply to every controller.	

Amendment 1968 (Sarah Ludford) Proposal for a regulation  
Article 31 – paragraph 3

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>3. The notification referred to in paragraph 1 must at least:</i></b>  <b><i>(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;</i></b>  <b><i>(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;</i></b>  <b><i>(d) describe the consequences of the personal data breach;</i></b>  <b><i>(e) describe the measures proposed or taken by the controller to address the personal data breach.</i></b>	<b><i>deleted</i></b>
Comments: This information is needed in order to judge the severity of the breach - if the controller makes the impact assessment as described in Amendment 1967, it will have to have the same number of assessments anyway.	

Amendment 1969 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation  
Article 31 – paragraph 3 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>3. The notification referred to in paragraph 1 must at least:</i></b>  <b><i>(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number</i></b>	<b><i>3. The notification must contain the details necessary to enable the supervisory authority to assess the gravity of the incidents and their consequences and, if necessary, recommend that action be taken.</i></b>

<p><i>of data records concerned;</i></p> <p><i>(b) communicate the identity and contact details of the data protection officer or other contact point where more information can be obtained;</i></p> <p><i>(d) describe the consequences of the personal data breach;</i></p> <p><i>(e) describe the measures proposed or taken by the controller to address the personal data breach.</i></p>	

Amendment 1970 (Louis Michel) Proposal for a regulation Article 31 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The notification referred to in paragraph 1 must <b>at least</b> :	3. The notification referred to in paragraph 1 must <b>if possible</b> :

Amendment 1971 (Louis Michel) Proposal for a regulation Article 31 – paragraph 3 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
(b) communicate the <b>identity and</b> contact details of the <b>data protection officer</b> or other contact point where more information can be obtained;	(b) communicate the contact details of the <b>controller</b> or other contact point where more information can be obtained;

Amendment 1972 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation Article 31 – paragraph 3 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
(e) describe the measures proposed or taken by the controller to address the personal data breach.	(e) describe the measures proposed or taken by the controller to address the personal data breach <b>and/or mitigate its effects</b> .

Amendment 1973 (Louis Michel) Proposal for a regulation Article 31 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>3a. The notification referred to in paragraph 1 shall not be required if the controller or the processor has implemented appropriate</b>

	<i>technological measures, which were applied to the data concerned by the personal data breach, such as measures which render the data unintelligible to any person who is not authorised to access it.</i>

Amendment 1974 (Sarah Ludford) Proposal for a regulation Article 31 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>3a. The national supervisory authority should provide guidance under Article 38 on the particular circumstances in which notification to the supervisory authority should take place. Furthermore, the level of detail and the specific information required when a controller notifies the supervisory authority of the data breach should be contained in guidance.</i>

Amendment 1975 (Sarah Ludford) Proposal for a regulation Article 31 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.</i>	<i>deleted</i>

Amendment 1976 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation Article 31 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.</i>	<i>4. The controller shall document any personal data breaches referred to in paragraph 1 of this article, comprising the facts surrounding the breach, its effects and the remedial action taken. Without prejudice to the above, the controller or, where appropriate, the processor, shall keep records of previous breaches and their consequences not referred to in paragraph 1 but relating to the use of personal data, and make them available to the supervisory authorities which may wish to receive</i>

	<i>copies thereof on a regular basis.</i>

Amendment 1977 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation Article 31 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.	4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must <b>be sufficient to</b> enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment 1978 (Timothy Kirkhope) Proposal for a regulation Article 31 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.	4. The controller shall document any personal data breaches <b>without undue delay when asked to be provided</b> , comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment 1979 (Louis Michel) Proposal for a regulation Article 31 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The controller shall document <b>any personal data breaches</b> , comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.	4. The controller shall document <b>data breaches referred to in paragraph 1</b> , comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

Amendment 1980 (Jan Mulder) Proposal for a regulation Article 31 – paragraph 4 – subparagraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>In case the controller is part of a group of undertakings or of joint controllers, the personal data breach may be notified by the main establishment, or by another controller or undertaking designated by the joint controllers or group of undertakings.</i>

Amendment 1981 (Lidia Joanna Geringer de Oedenberg) Proposal for a regulation Article 31 – paragraph 4 – subparagraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>Cases in which it is highly probable that a breach of personal data protection will have a negative impact on the data subject's privacy shall be deemed serious breaches.</i>

Amendment 1982 (Lidia Joanna Geringer de Oedenberg) Proposal for a regulation Article 31 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4a. The supervisory authority should maintain a publicly accessible register of identified and closed serious breaches.</i>

Amendment 1983 (Cornelia Ernst, Marie-Christine Vergiat) Proposal for a regulation Article 31 – paragraph 4 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4a. The supervisory authority shall keep a public register of the types of breaches notified.</i>

Amendment 1984 (Lidia Joanna Geringer de Oedenberg) Proposal for a regulation Article 31 – paragraph 4 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>4b. Notification of a breach of personal data protection shall, exceptionally, not be required</i>

	<i>where the controller has, without delay, implemented appropriate technological measures to safeguard the personal data concerned by the breach, and where such measures ensure that the at-risk data are rendered unintelligible to any person not authorised to access them,</i>
<p>Comments: This applies article 32(3) of the Commission proposal to article 31. It clarifies that a notification to authorities always necessary, unless the data are rendered unintelligible to 'any person not authorised to access'. This is quite a high threshold, as data can very easily be related back to natural persons once a data breach has occurred. A data breach should therefore always be reported to the supervisory authority unless its absolutely sure that the data do not constitute personal data.</p>	

Amendment 1985 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation Article 31 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.</i>	<i>deleted</i>

Amendment 1986 (Louis Michel) Proposal for a regulation Article 31 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.</i>	<i>deleted</i>

Amendment 1987 (Axel Voss, Hubert Pirker, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Monika Hohlmeier, Renate Sommer) Proposal for a regulation  
Article 31 – paragraph 5

<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.</b>	<i>deleted</i>

Amendment 1988 (Sarah Ludford) Proposal for a regulation  
Article 31 – paragraph 5

<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.</b>	<i>deleted</i>

Amendment 1989 (Dimitrios Droutsas) Proposal for a regulation  
Article 31 – paragraph 5

<i>Commission Proposal</i>	<i>Amendment</i>
5. 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 establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.	5. The Commission shall be empowered to adopt, <b><i>after requesting an opinion of the European Data Protection Board</i></b> , delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.



Amendment 1990 (Louis Michel) Proposal for a regulation Article 31 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. <i>The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	<i>deleted</i>

Amendment 1991 (Sarah Ludford) Proposal for a regulation Article 31 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. <i>The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	<i>deleted</i>

Amendment 1992 (Alexander Alvaro) Proposal for a regulation Article 31 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission <i>may lay</i> down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. <i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</i>	6. The Commission <i>shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying</i> down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein.

Amendment 1993 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation  
Article 31 – paragraph 6

<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down the standard format of <b><i>such notification</i></b> to the supervisory authority, <b><i>the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein.</i></b> Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).	6. The Commission may lay down the standard format of <b><i>notifications</i></b> to the supervisory authority, <b><i>in accordance with paragraph 3, and of the register of breaches and their consequences.</i></b> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 1994 (Dimitrios Droutsas) Proposal for a regulation  
Article 31 – paragraph 6

<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted, <b><i>after requesting an opinion of the European Data Protection Board,</i></b> in accordance with the examination procedure referred to in Article 87(2).

Amendment 1995 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation  
Article 31 – paragraph 6

<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the <b><i>notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein.</i></b> Those implementing acts shall be adopted in accordance with the examination procedure referred to in <b><i>Article 87(2).</i></b>	6. The Commission may lay down the standard format of such notification to the supervisory authority <b><i>and</i></b> the procedures applicable to the <b><i>filing of reports.</i></b>

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**Amendment 1996 (Sylvie Guillaume, Françoise Castex) Proposal for a regulation  
Article 32 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject <b><i>without undue delay</i></b> .	1. When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject <b><i>within 24 hours</i></b> .

**Amendment 1997 (Timothy Kirkhope) Proposal for a regulation  
Article 32 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. When the personal data breach is likely to <b><i>adversely</i></b> affect the protection of the personal data or privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.	1. When the personal data breach is likely to <b><i>have an adverse</i></b> affect <b><i>to the</i></b> protection of the personal data or privacy of the data subject <b><i>with respect to proportionality</i></b> , the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.

**Amendment 1998 (Louis Michel) Proposal for a regulation  
Article 32 – paragraph 1**

<i>Commission Proposal</i>	<i>Amendment</i>
1. When the personal data breach <i>is</i> likely to <b><i>adversely affect the protection</i></b> of the <b><i>personal data or privacy</i></b> of the <b><i>data subject</i></b> , the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.	1. When the personal data breach <b><i>causes or is</i></b> likely to <b><i>cause significant adverse effect on the privacy</i></b> of the <b><i>data subject and minimizing</i></b> of the <b><i>harm requires action by data subjects</i></b> , the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay <b><i>unless this is disproportionately difficult. When communication to data subjects would risk causing further serious harm to the protection of the personal data or privacy of the data subject, the controller may, after consulting with the supervisory authority, delay communication to data subjects until such risk no longer prevails.</i></b>

Amendment 1999 (Axel Voss, Hubert Pirker, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Monika Hohlmeier, Renate Sommer)  
Article 32 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. When the personal data breach is likely to adversely affect the protection of the personal data <b>or</b> privacy of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.	1. When the personal data breach is likely to adversely affect the protection of the personal data, <b>the</b> privacy, <b>the right or the legitimate interests</b> of the data subject, the controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay. <b><i>A breach should be considered as adversely affecting the personal data or privacy of a data subject where it could result in, for example, identity theft or fraud, physical harm, significant humiliation or damage to reputation.</i></b>
Comments: Examples are helpful if they are not limiting - for example here means they are not (but maybe better in a preamble).	

Amendment 2000 (Jens Rohde) Proposal for a regulation  
Article 32 – paragraph 3

<i>Commission Proposal</i>	<i>Amendment</i>
3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.	3. The communication of a personal data breach to the data subject shall not be required if the <b><i>data breach has not produced significant harm to citizens and the</i></b> controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, <b><i>unusable or anonymised</i></b> to any person who is not authorised to access it.
Comments: see the arguments concerning the ‘significant harm’ in the amendments on Article 31 above.	

Amendment 2001 (Louis Michel) Proposal for a regulation  
Article 32 – paragraph 3

<i>Commission Proposal</i>	<i>Amendment</i>
3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any	3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall <b><i>have the purpose to</i></b> render the data

person who is not authorised to access <i>it</i> .	unintelligible to any person who is not authorised to access <i>them, taking into account the nature of the data, the state of the art and the cost.</i>

Amendment 2002 (Josef Weidenholzer, Birgit Sippel) Proposal for a regulation Article 32 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The communication of a personal data breach to the data subject <b><i>shall not be required if</i></b> the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.	3. The communication of a personal data breach to the data subject <b><i>can only be delayed if the information could lead to further circulation of the data concerned, and is to be performed after</i></b> the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

Amendment 2003 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier, Hubert Pirker, Lara Comi) Proposal for a regulation Article 32 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
3. The communication of a personal data breach to the data subject shall not be required if the <b><i>controller demonstrates to the satisfaction of the supervisory authority that it</i></b> has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised <b><i>to</i></b> access it.	3. The communication of a personal data breach to the data subject shall not be required if the <b><i>data breach has not produced significant harm and the controller</i></b> has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible, <b><i>unusable or anonymised</i></b> to any person who is not authorised access <b><i>to</i></b> it.

Amendment 2004 (Cornelia Ernst, Marie-Christine Vergiat) Proposal for a regulation Article 32 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>3a. If after the implementation of the suggested technological measures another data breach were to occur, the controller shall always be obliged to</i></b>

	<i>communicate this without undue delay to the data subject.</i>

Amendment 2005 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation Article 32 – paragraph 4 – subparagraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>Those concerned shall not be notified in cases where this could clearly obstruct current investigations or hinder or delay measures to resolve the security breach. More detailed provision for such eventualities may be made under EU law and Member State legislation, the objective being at all times to uphold the public interest and comply with the spirit of data protection law.</i>

Amendment 2006 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation Article 32 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.</i>	<i>deleted</i>

Amendment 2007 (Timothy Kirkhope) Proposal for a regulation Article 32 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.</i>	<i>deleted</i>

Amendment 2008 (Louis Michel) Proposal for a regulation Article 32 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.</b>	<i>deleted</i>

Amendment 2009 (Dimitrios Droutsas) Proposal for a regulation Article 32 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.	5. The Commission shall be empowered to adopt, <b>after requesting an opinion of the European Data Protection Board</b> , delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.

Amendment 2010 (Louis Michel) Proposal for a regulation Article 32 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</b>	<i>deleted</i>

Amendment 2011 (Alexander Alvaro) Proposal for a regulation Article 32 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission <b>may lay</b> down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. <b>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</b>	6. The Commission <b>shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of laying</b> down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication.

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Amendment 2012 (Agustín Díaz de Mera García Consuegra) Proposal for a regulation Article 32 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).	6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication, <b><i>with a particular focus on cases affecting large numbers of people</i></b> . Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).

Amendment 2013 (Dimitrios Droutsas) Proposal for a regulation Article 32 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted, <b><i>after requesting an opinion of the European Data Protection Board</i></b> , in accordance with the examination procedure referred to in Article 87(2).

Amendment 2014 (Alexander Alvaro) Proposal for a regulation Chapter 4 – section 3 – title	
<i>Commission Proposal</i>	<i>Amendment</i>
DATA PROTECTION <b><i>IMPACT ASSESSMENT AND PRIOR AUTHORISATION</i></b>	<b><i>LIFECYCLE</i></b> DATA PROTECTION <b><i>MANAGEMENT</i></b>

Amendment 2015 (Adina-Ioana Vălean, Jens Rohde) Proposal for a regulation Article 32 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>Article 32a</i></b> <b><i>Communication of a personal data breach to other organisations</i></b>



	<p><i>A controller that communicates a personal data breach to a data subject pursuant to Article 32 may notify another organisation, a government institution or a part of a government institution of the personal data breach if that organisation, government institution or part may be able to reduce the risk of the harm that could result from it or mitigate that harm. Such notifications can be done without informing the data subject if the disclosure is made solely for the purposes of reducing the risk of the harm to the data subject that could result from the breach or mitigating that harm.</i></p>

Amendment 2016 (Alexander Alvaro) Proposal for a regulation Article 32 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Article 32a</i></p> <p style="text-align: center;"><i>Data protection risk analysis</i></p> <p><i>1. The controller shall carry out a risk analysis with regard to data processing operations, assessing whether at least two of the risk factors referred to under Article 5b(1) to (10) exist.</i></p> <p><i>2. Where at least two of the risk factors referred to under Article 5b(1) to (10) exist, the controller or the processor acting on the controller's behalf shall carry out a data protection impact assessment pursuant to Article 33.</i></p> <p><i>3. Where less than two of the risk factors referred to under Article 5b(1) to (10) exist, the risk analysis and its findings shall be documented.</i></p> <p><i>4. The risk analysis shall be reviewed at the latest after one year, or immediately, if the nature, the scope or the purposes of the data processing operations change significantly.</i></p>

Amendment 2531 (Sophia in 't Veld)  
Article 44 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><b>Article 44a</b></p> <p style="text-align: center;"><b><i>Transfers to cloud services under third country jurisdiction</i></b></p> <p><b><i>The transfer of personal data to cloud services under the jurisdiction of a third country shall be prohibited, unless:</i></b></p> <p><b><i>(a) one of the legal grounds for transfer of personal data to third countries listed in this Chapter is applied; and</i></b></p> <p><b><i>(b) the data subject has given consent; and</i></b></p> <p><b><i>(c) the consent has been given by the data subject after having been informed in clear, unambiguous and warning language through a separate and prominently visible reference to:</i></b></p> <p><b><i>(i) the possibility of the personal data being subject to intelligence gathering or surveillance by third-country authorities; and</i></b></p> <p><b><i>(ii) the risk that the protection of personal data and fundamental rights provided by Union and Member State law cannot be guaranteed, despite the legal basis of the transfer.</i></b></p>
<p>Comment: Without this safeguard, there is a large risk of fundamental rights of citizens being undermined by data being transferred outside the EU without appropriate safeguards.</p>	

Amendment 2748 (Carmen Romero López)  
Article 66 – paragraph 1 – point g a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b><i>(ga) set out common procedures for the receipt and investigation of information pertaining to complaints concerning the unlawful processing of personal data with a view to protecting whistleblowers from reprisals, and to safeguarding the confidentiality of the sources of such information in cases where whistleblowers may be affected by third countries' laws prohibiting the uncovering of such unlawful processing of personal data.</i></b></p>
<p>Comment: This amendment ensures that foreign whistleblowers will be protected as much as possible by</p>	

EU legislation.

Amendment 2844 (Sophia in 't Veld) Article 79 – title	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>Administrative</i> sanctions	<i>Sanctions</i>
Comment:	

Amendment 2845 (Josef Weidenholzer) Article 79 – paragraph 6 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>6a. The supervisory authority shall seize all profits from a controller or processor which directly result from an intentional or grossly negligent breach of this regulation.</b>
Comment:	

Amendment 2846 (Agustín Díaz de Mera García Consuegra) Article 79 paragraph 7 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>7a. The Commission shall compile an electronic record of previous instances accessible to all national supervisory authorities. The Commission shall be empowered to adopt delegated acts pursuant to Article 86 for the purpose of managing the electronic record of previous instances in accordance with this article.</b>
Comment:	

Amendment 2847 (Alexander Alvaro) Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. <b>The supervisory authorities shall co-operate with each other in accordance with Articles 46 and 57 to guarantee a harmonized level of sanctions within the Union.</b>
Comment:	

Amendment 2848 (Adina-Ioana Vălean, Jens Rohde) Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. <i>Each</i> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. <i>The competent</i> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
Comment:	

Amendment 2849 (Nils Torvalds) Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each supervisory authority shall be empowered to impose <i>warnings or</i> administrative sanctions in accordance with this Article.
Comment:	

Amendment 2850 (Dimitrios Droutsas) - Proposal for a regulation Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. <i>The supervisory authorities shall cooperate with each other in accordance with Articles 46 and 57 to guarantee a consistent level of sanctions within the Union.</i>
Comment:	

Amendment 2851 (Louis Michel) - Proposal for a regulation Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each <i>competent</i> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
Comment:	

Amendment 2852 (Lidia Joanna Geringer de Oedenberg) - Proposal for a regulation Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. <i>Each</i> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. <i>The competent</i> supervisory authority <i>in accordance with Article 51</i> shall be empowered to impose administrative sanctions in accordance with this Article
Comment:	

Amendment 2853 (Hubert Pirker) - Proposal for a regulation Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each <i>competent</i> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.
Comment:	

Amendment 2854 (Sarah Ludford) - Proposal for a regulation Article 79 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.	1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. <i>The administrative sanctions available to supervisory authorities must include at least financial penalties and other administrative sanctions such as warnings and recommendations for remedial action, including in relation to technical and organisational measures.</i>
Comment:	

Amendment 2855 (Alexander Alvaro) - Proposal for a regulation Article 79 – paragraph 1 c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(c) a fine up to 100 000 000 EUR.</i>
Comment: The Alvaro's Amendments are consistent in that throughout they eliminate the escalating prescriptive requirements with a set of criteria (see 70(2a) new below) and a set of escalating sanctions	

with a maximum much larger fine (100,000,000 instead of the 1,000 000), but he does eliminate the percentage of turnover for the very large enterprises. On the fact of it this seems neater and less prescriptive, however it has the danger of creating forum shopping as authorities may use the guidelines differently across Europe (unless there is provision for a consistency mechanism).

Amendment 2856 (Alexander Alvaro) - Proposal for a regulation Article 79 – paragraph 1 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1b. If the controller or the processor is in possession of a valid "European Data Protection Seal" pursuant to Article 39, a fine pursuant to paragraph 2c) shall only be imposed in cases of intentional or negligent non-compliance.</i></b>
Comment:	

Amendment 2857 (Alexander Alvaro) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. <b><i>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.</i></b>	<b><i>2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.</i></b>
Comment:	

Amendment 2858 (Nils Torvalds) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall <b><i>be fixed with due regard to</i></b> 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	2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall <b><i>be based on</i></b> 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

of co-operation with the supervisory authority in order to remedy the breach.	supervisory authority in order to remedy the breach.
Comment:	

Amendment 2859 (Adina-Ioana Vălean, Jens Rohde) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
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.	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 <b><i>sensitivity of the personal data at issue, the intentional or negligent character of the infringement, the degree of harm or risk of significant harm created by the violation, the degree of</i></b> 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. <b><i>While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.</i></b>
Comment: non-compliance is non-compliance - severe non-compliance that doesn't cause harm is non-compliance.	

Amendment 2860 (Agustín Díaz de Mera García Consuegra) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
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 <b><i>or negligent</i></b> 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.	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 character of the infringement <b><i>or the type of negligence</i></b> leading to it, 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, <b><i>as well as the true economic situation of those penalised.</i></b>

Comment:

Amendment 2861 (Axel Voss) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
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.	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: <i>(a)</i> the nature, gravity and duration of the breach; <i>(b)</i> the intentional or negligent character of the infringement; <i>(c) the particular categories of personal data;</i> <i>(d)</i> the degree of responsibility of the natural or legal person and of previous breaches by this person; <i>(e) the degree of responsibility for data protection by technical and organisational measures and procedures especially pursuant to Articles 35, 38a, 38b, 38c, 39;</i> <i>(f)</i> the technical and organisational measures and procedures implemented pursuant to Article 23; and <i>(g)</i> the degree of co-operation with the supervisory authority in order to remedy the breach.
Comment:	

Amendment 2862 (Dimitrios Droutsas) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. <b><i>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.</i></b>	2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.



Comment: it is not ideal, as it may result in differing sanction regimes across the member countries, and consequently forum shopping for the more 'lenient' authorities

Amendment 2863 (Timothy Kirkhope) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall <b>be fixed with due regard to</b> 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.	2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall <b>reflect</b> 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.
Comment:	

Amendment 2864 (Louis Michel) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
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.	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 <b>sensitivity of the personal data at issue, the</b> intentional or negligent character of the infringement, the degree of <b>harm or risk of significant harm created by the violation, the degree of</b> 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. <b>While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.</b>  <b>In setting an administrative fine, supervisory authorities shall also take into account fines, damages or other penalties previously imposed by a court or other body on the natural or legal</b>

	<p><i>person in respect of the violation issue.</i></p> <p><i>Aggravating factors that support administrative fines at the upper limits established in paragraphs 4 to 6 shall include in particular:</i></p> <p><i>(a) repeated violations committed in reckless disregard of applicable law;</i></p> <p><i>(b) refusal to cooperate with or obstruction of an enforcement process; and</i></p> <p><i>(c) violations that are deliberate, serious and likely to cause substantial damage.</i></p> <p><i>Mitigating factors which support administrative fines at the lower limits shall include:</i></p> <p><i>(a) measures having been taken by the natural or legal person to ensure compliance with relevant obligations;</i></p> <p><i>(b) genuine uncertainty as to whether the activity constituted a violation of the relevant obligations;</i></p> <p><i>(c) immediate termination of the violation upon knowledge; and</i></p> <p><i>(d) cooperation with any enforcement processes.</i></p>
<p>Comment:</p>	

<p>Amendment 2865 (Hubert Pirker) - Proposal for a regulation Article 79 – paragraph 2</p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p>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.</p>	<p>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, <b><i>the specific category of personal data, the seriousness of the damage or risk of damage caused by the breach,</i></b> 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.</p>
<p>Comment:</p>	

Amendment 2866 (Sarah Ludford) - Proposal for a regulation Article 79 – paragraph 2	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>2. <b>The</b> administrative sanction shall be in <i>each</i> individual case effective, proportionate and dissuasive. <b>The amount</b> of the administrative <i>fine shall be fixed with due</i> regard to the nature, gravity and duration of the breach, <b>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</b> with the supervisory authority in order to remedy the breach.</p>	<p>2. <b>An</b> administrative sanction shall be in <i>every</i> individual case effective, proportionate and dissuasive. <b>In deciding on the nature, scope and seriousness</b> of the administrative <b>sanction to apply the supervisory authority shall have</b> regard to <b>all the circumstances and, in particular:</b></p> <p>(a) <i>the nature, gravity and duration of the breach;</i></p> <p>(b) <i>whether the breach was deliberate;</i></p> <p>(c) <i>whether reasonable steps were taken to prevent it;</i></p> <p>(d) <i>whether the breach did or is likely to cause substantial harm or substantial prejudice to the fundamental rights and freedoms of a data subject, or substantial distress to a data subject;</i></p> <p>(e) <i>any steps taken to mitigate the consequences of a breach, including the degree of cooperation with the supervisory authority in order to remedy the breach or its consequences;</i></p> <p>(f) <i>any previous breaches.</i></p>
Comment:	

Amendment 2867 (Alexander Alvaro) - Proposal for a regulation Article 79 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p>2a. <b>The administrative sanction shall take into account the following factors:</b></p> <p>(a) <i>the nature, gravity and duration of the non-compliance;</i></p> <p>(b) <i>the procedures implemented in respect to the contexts of and risks represented by the data processing referred to under Articles 5a and 5b;</i></p> <p>(c) <i>the degree of responsibility of the natural or legal person and of previous breaches by this person;</i></p> <p>(d) <i>the degree of technical and organisational measures and procedures implemented pursuant to:</i></p> <p>(i) <i>Article 23 - Data protection by design and by default;</i></p>

	<p><i>(ii) Article 23a – Compliance;</i></p> <p><i>(iii) Article 30 - Security of processing;</i></p> <p><i>(iv) Article 33 - Data protection impact assessment;</i></p> <p><i>(v) Article 33a - Data protection compliance review;</i></p> <p><i>(vi) Article 35 - Designation of the data protection officer;</i></p> <p><i>(e) the degree of co-operation with the supervisory authority.</i></p>
<p>Comment: see also comments under the Alvaro amendment 2855 - he reduces the prescriptions in 79 by setting out available sanctions in 1a new, factors that sanctions to be taken into account (79 2a new), then deleting all the other paras in this article. This is not inherently bad, but it can create a differing sanctions regime across the EU unless a consistency mechanism is in place. And although he increased greatly the maximum fine (if 100 million euro figure quoted is the right one), he eliminates the percentage of turnover, which lets the very big enterprises off the hook.</p>	

Amendment 2868 (Dimitrios Droutsas) - Proposal for a regulation Article 79 – paragraph 2 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>2a. In order to determine the type, the level and the amount of the administrative sanction, the supervisory authority shall take into account all relevant circumstances, with due regard to the following criteria:</i></p> <p><i>(a) the possession of a valid "European Data Protection Seal" pursuant to Article 39, by the controller or the processor;</i></p> <p><i>(b) the nature, gravity and duration of the infringement;</i></p> <p><i>(c) the intentional or negligent character of the infringement;</i></p> <p><i>(d) the degree of responsibility of the natural or legal person and of previous infringements by this person;</i></p> <p><i>(e) the technical and organisational measures and procedures implemented pursuant to Articles 23 and 30, such as pseudonymisation;</i></p> <p><i>(f) the specific categories of personal data affected by the infringement;</i></p> <p><i>(g) the repetitive nature of the infringement;</i></p> <p><i>(h) the degree of harm suffered by data subjects,</i></p> <p><i>(i) the pecuniary interest leading to the infringement by the person responsible and the</i></p>

	<p><i>level of the profits gained or losses avoided by the person responsible, insofar as they can be determined;</i></p> <p><i>(j) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement; and</i></p> <p><i>(k) the refusal to cooperate with or obstruction of inspections, audits and controls carried out by the supervisory authority pursuant to Article 53.</i></p>
Comment:	

Amendment 2869 (Alexander Alvaro) -Proposal for a regulation Article 79 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(a) a natural person is processing personal data without a commercial interest; or</b></p> <p><b>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</b></p>	<p><i>deleted</i></p>
Comment:	

Amendment 2870 (Timothy Kirkhope) Article 79 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(a) a natural person is processing personal data without a commercial interest; or</b></p> <p><b>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</b></p>	<p><i>deleted</i></p>
Comment:	

Amendment 2871 (Sarah Ludford) Article 79 – paragraph 3	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>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:</p> <p>(a) a natural person is processing personal data without a commercial interest; or</p> <p>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</p>	<p><i>deleted</i></p>
Comment:	

Amendment 2872 (Salvador Sedó i Alabart) Article 79 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing <b>may</b> be given and no sanction imposed, where:</p>	<p>3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing <b>shall</b> be given and no sanction imposed, where:</p>
Comment:	

Amendment 2873 (Adina-Ioana Vălean, Jens Rohde) Article 79 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>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:</p> <p>(a) a natural person is processing personal data without a commercial interest; or</p> <p>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</p>	<p>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. <b>The competent supervisory authority may impose a fine, in accordance with the amount of harm caused, up to EUR 1 000 000 for repeated, intentional breaches or, in the case of a company, of up to 1% of its annual worldwide turnover.</b></p>
Comment:	

Amendment 2874 (Axel Voss) Article 79 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>3. In case of a <b>first and non-intentional</b> non-compliance with this Regulation, <b>a warning in writing may be given and no sanction imposed, where:</b></p> <p><b>(a) a natural person is processing personal data without a commercial interest; or</b></p> <p><b>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</b></p>	<p>3. In case of a <b>non-intentional non-compliance with this Regulation and if there is no data subject affected the supervisory authority shall find an agreement with the controller or processor concerned to resolve the non-compliance with this Regulation without a written warning or imposing a sanction.</b></p> <p><b>In case of a serious non-compliance with this Regulation, the supervisory authority should give at first a written warning including supposed measures to resolve the data breaches within a reasonable time without imposing a sanction.</b></p> <p><b>The supervisory authority may only impose a fine with regard to paragraph 2 of up to EUR 1 000 000 or, in the case of a company, of up to 2 % of its annual worldwide turnover, for not resolving the data breaches with measures given in a written warning or for repeated, deliberate breaches.</b></p>
<p>Comment: This simplification could be acceptable with the help of the consistency mechanism, however in the last para the ‘may only impose a fine of up to 1 million’ actually restricts the freedom of authorities to impose large fines when they consider appropriate. For e.g. a large corporation like Google should not have to receive repeated warnings before conforming (e.g. Street view was not a ‘repeated’ breach)</p>	

Amendment 2875 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>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:</p>	<p>3. In case of a first and non-intentional non-compliance with this Regulation, <b>in the absence of any record of previous unappealable instances or where the record has been expunged</b>, a warning in writing may be given and, <b>in such an instance</b>, no sanction imposed, <b>with the sole exception of alternative corrective measures, which may only be imposed in the following cases and in the following form, where:</b></p>
<p>Comment:</p>	

Amendment 2876 (Véronique Mathieu Houillon, Axel Voss) Article 79 – paragraph 3 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>3. In case of a first <b>and non-intentional</b> non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, <b>where:</b></p>	<p>3. In case of a first non-compliance with this Regulation, a warning in writing may be given and no sanction imposed.</p>

<p><b><i>(a) a natural person is processing personal data without a commercial interest; or</i></b></p> <p><b><i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i></b></p>	
Comment:	

Amendment 2877 (Louis Michel) Article 79 – paragraph 3 – introductory part	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
<p>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, <b><i>where:</i></b></p> <p><b><i>(a) a natural person is processing personal data without a commercial interest; or</i></b></p> <p><b><i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i></b></p>	<p>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.</p>
Comment:	

Amendment 2878 (Nils Torvalds, Riikka Manner) Article 79 – paragraph 3 – introductory part	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
<p>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, <b><i>where:</i></b></p> <p><b><i>(a) a natural person is processing personal data without a commercial interest; or</i></b></p> <p><b><i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i></b></p>	<p>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.</p>
Comment:	



Amendment 2879 (Jan Mulder) Article 79 – paragraph 3 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i>	<i>deleted</i>
Comment:	

Amendment 2880 (Sari Essayah, Eija-Riitta Korhola) Article 79 – paragraph 3 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i>	<i>(b) an enterprise or an organisation is processing personal data only as an activity ancillary to its main activities.</i>
Comment:	

Amendment 2881 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 3 – point b	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.</i>	<i>(b) an enterprise or an organisation is willing to cooperate with the supervisory authority for the introduction of corrective measures designed to avoid similar cases of non-compliance in future. Cooperation in this area shall be governed by binding agreements with the supervisory authority. Failure to collaborate with the duly accredited supervisory authority within six months from the beginning of the proceedings shall incur the fine which would originally have been imposed.</i>
Comment:	

Amendment 2882 (Sari Essayah) Article 79 – paragraph 3 – point b a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) a public authority is processing data.</i>
Comment:	

Amendment 2883 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 3 – point b a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) public administrations shall collaborate with supervisory authorities to establish ways of avoiding similar infringements in future. Collaboration in this area shall be determined on the basis of the agreements or decisions adopted by the administration concerned, which shall be referred to at the outset with regard to the measures taken. Failure to collaborate with the duly accredited supervisory authority within one year from the beginning of the proceedings shall incur the fine which would originally have been imposed.</i>
Comment:	

Amendment 2884 (Sarah Ludford) Article 79 – paragraph 3 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>3a. A supervisory authority may, in particular, decide that it is appropriate to apply a sanction other than a financial penalty if the nature, scope or purposes of the processing activities are such that the activity is unlikely to represent risks for the fundamental rights of a data subject.</i>
Comment:	

Amendment 2885 (Alexander Alvaro) Article 79 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>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).</i>	<i>deleted</i>
Comment:	

Amendment 2886 (Axel Voss) Article 79 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).</b></p>	<p><i>deleted</i></p>
Comment:	

Amendment 2887 (Adina-Ioana Vălean, Jens Rohde) Article 79 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).</b></p>	<p><i>deleted</i></p>
Comment:	

Amendment 2888 (Dimitrios Droutsas) Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>4. The supervisory authority shall impose a fine <b>up to</b> 250 000 EUR, or in case of an enterprise <b>up to</b> 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><b>(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or</b></p>	<p>4. The supervisory authority shall impose a fine <b>that shall not exceed</b> 250 000 EUR, or in case of an enterprise <b>1 %</b> of its annual worldwide turnover, to anyone who intentionally or negligently <b>infringes Article 12(1) and (2).</b></p>

<p><i>not in the required format to data subjects pursuant to Articles 12(1) and (2);</i></p> <p><i>(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).</i></p>	
Comment:	

Amendment 2889 (Josef Weidenholzer, Birgit Sippel)	
Article 79 – paragraph 4	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to <b>0,5 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><i>(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);</i></p> <p><i>(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).</i></p>	<p>4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to <b>1 %</b> of its annual worldwide turnover <b><i>whatever is higher</i></b> to anyone who intentionally or negligently <b><i>infringes Article 12(1) and (2).</i></b></p>
Comment:	

Amendment 2890 (Louis Michel)	
Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>4. The supervisory authority <b><i>shall</i></b> impose a fine up to 250 000 EUR, <b><i>or in case of an enterprise up to 0,5 % of its annual worldwide turnover,</i></b> to anyone who, intentionally <b><i>or negligently</i></b>:</p>	<p>4. The supervisory authority <b><i>may</i></b> impose a fine up to 250 000 EUR to anyone who, intentionally:</p>
Comment:	

Amendment 2891 (Nils Torvalds, Riikka Manner)	
Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>4. The supervisory authority shall <b><i>impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover,</i></b> to anyone who, intentionally or negligently:</p>	<p>4. The supervisory authority shall, <b><i>based on the gravity of the breach, impose a fine or a warning</i></b> to anyone who, intentionally or negligently:</p>

Comment:

Amendment 2892 (Cornelia Ernst, Marie-Christine Vergiat) Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to <b>0,5 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:	4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to <b>1 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:
Comment:	

Amendment 2893 (Timothy Kirkhope) Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The supervisory authority shall impose <b>a fine</b> up to 250 000 <b>EUR</b> , or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, <b>intentionally or negligently</b> :	4. The supervisory authority shall impose <b>fin</b> <i>es graded in relation to the seriousness and scale of the incident, as well as the harm or potential harm caused, the length of the breach, previous infringements and the response to the incident or incidents concerned</i> , up to <b>a maximum of 250 000 EU</b> , or in case of an enterprise up to 0,5 % of its annual worldwide turnover. <b>Such infringements and fines may apply</b> to anyone who:
Comment:	

Amendment 2894 (Ewald Stadler) Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The supervisory authority shall impose a fine up to <b>250.000 EUR or, in case of an enterprise up to 0,5 % of its annual worldwide turnover</b> , to anyone who, intentionally or negligently:	4. The supervisory authority shall impose a fine up to <b>500 000 EUR</b> to anyone who, intentionally or negligently
Comment:	

Amendment 2895 (Sarah Ludford) Article 79 – paragraph 4 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
4. The supervisory authority <b>shall</b> 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:	4. The supervisory authority <b>may</b> 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:
Comment:	

Amendment 2896 (Alexander Alvaro) Article 79 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</b></p> <p><b>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</b></p> <p><b>(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</b></p>	deleted

<i>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.</i>	
Comment:	

**Amendment 2897 (Axel Voss)  
Article 79 – paragraph 5**

<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</b></p> <p><b>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</b></p> <p><b>(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</b></p>	<p><i>deleted</i></p>

<i>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.</i>	
Comment:	

Amendment 2898 (Adina-Ioana Vălean, Jens Rohde) Article 79 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</b></p> <p><b>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</b></p> <p><b>(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</b></p>	<p><i>deleted</i></p>



<i>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.</i>	
Comment:	

Amendment 2899 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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 <b>turnover</b> , to anyone who, intentionally or negligently:	5. The supervisory authority shall impose a fine up to 500 000 EUR or, in case of an enterprise, up to 1 % of its <b>average</b> annual worldwide <b>profits</b> to anyone who, intentionally or negligently:
Comment:	

Amendment 2900 (Wim van de Camp) Article 79 – paragraph 5	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>5. The supervisory authority <b>shall</b> 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:</p> <p>(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;</p> <p>(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;</p> <p>(c) does not comply with the right to be forgotten or to erasure, <b>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;</b></p> <p>(d) <b>does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to</b> another application in violation of Article 18;</p> <p>(e) does not or not sufficiently determine the respective responsibilities with co-controllers</p>	<p>5. The supervisory authority <b>may</b> 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:</p> <p>(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;</p> <p>(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;</p> <p>(c) does not comply with the right to be forgotten or to erasure <b>or has not provided a mechanism pursuant Article 17a. When determining a fine for a violation as referred to in this section, the supervisory authority shall take into account the extent to which the controller, or the main establishment as referred to in article 22(4), has put in place mechanisms for ensuring that the time limits with respect to the retention of the personal data are observed;</b></p> <p>(d) <b>hinders the data subject to his user-generated content to</b> another application in violation of Article 18;</p>

<p>pursuant to Article 24;</p> <p>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</p> <p>(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.</p>	<p>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</p> <p>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</p> <p>(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.</p>
<p>Comment:</p>	

<p>Amendment 2901 (Dimitrios Droutsas) Article 79 – paragraph 5 – introductory part</p>	
<p><i>Commission Proposal</i></p>	<p><i>Amendment</i></p>
<p>5. The supervisory authority shall impose a fine <b>up to</b> 500 000 EUR, or in case of an enterprise <b>up to 1</b> % of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</i></p> <p><i>(f) does not or not sufficiently maintain the</i></p>	<p>5. The supervisory authority shall impose a fine <b>that shall not exceed</b> 500 000 EUR, or in case of an enterprise <b>2</b> % of its annual worldwide turnover to anyone who intentionally or negligently <b>infringes Articles 11, 12(3) and (4), 13, 14, 15, 16, 17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.</b></p>

<p><i>documentation pursuant to Article 28, Article 31(4), and Article 44(3);</i></p> <p><i>(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.</i></p>	
<p>Comment:</p>	

Amendment 2902 (Josef Weidenholzer, Birgit Sippel) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to <b>1</b> % of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</i></p> <p><i>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</i></p> <p><i>(g) does not comply, in cases where special categories of data are not involved, pursuant to</i></p>	<p>5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to <b>2</b> % of its annual worldwide turnover <b><i>whatever is higher,</i></b> to anyone who, intentionally or negligently, <b><i>infringes Articles 11, 12(3) and (4), 13, 14, 15, 16,17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.</i></b></p>

<i>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.</i>	
Comment:	

Amendment 2903 (Louis Michel) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The supervisory authority <b>shall impose</b> a fine up to 500 000 EUR, <b>or in case of an enterprise up to 1 % of its annual worldwide turnover</b> , to anyone who, intentionally <b>or negligently</b> :	5. The supervisory authority imposes a fine up to 500 000 EUR to anyone who intentionally:
Comment:	

Amendment 2904 (Nils Torvalds, Riikka Manner) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The supervisory authority shall <b>impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover</b> , to anyone who, intentionally or negligently:	5. The supervisory authority shall, <b>based on the gravity of the breach, impose a fine or a warning</b> to anyone who, intentionally or negligently:
Comment:	

Amendment 2905 (Cornelia Ernst, Marie-Christine Vergiat) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to <b>1 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:	5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to <b>3 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:
Comment:	

Amendment 2906 (Timothy Kirkhope) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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,	5. The supervisory authority shall impose a fine <b>under the same criteria as listed in article 79 paragraph 4, for the more serious breaches</b> , up to

<i>intentionally or negligently:</i>	<i>a maximum of</i> 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover to anyone who:
Comment:	

Amendment 2907 (Sarah Ludford) Article 79 – paragraph 5 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
5. The supervisory authority <b>shall</b> 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:	5. The supervisory authority <b>may</b> 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:
Comment:	

Amendment 2908 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 5 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) does not provide the information, or does provide incomplete information, <b>or does not provide the information in a sufficiently transparent manner, to the data subject</b> pursuant to Article 11, Article 12(3) and Article 14;	(a) does not provide the information, or does provide <b>manifestly</b> incomplete information, pursuant to Article 11, Article 12(3) and Article 14;
Comment:	

Amendment 2909 (Louis Michel) Article 79 – paragraph 5 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(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;	(c) does not comply with the right to be forgotten or to erasure, <b>on websites or data within their control</b> , 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;
Comment:	

Amendment 2910 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 5 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) does not comply with the right to be forgotten or to erasure, <b><i>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;</i></b>	(c) does not comply with <b><i>a request concerning</i></b> the right to be forgotten or erasure <b><i>in accordance with the provisions of this Regulation.</i></b>
Comment:	

Amendment 2911 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 5 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
(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;	(d) does not provide a copy of the personal data in electronic format or <b><i>for no legitimate reason</i></b> hinders the data subject to transmit the personal data to another application in violation of Article 18;
Comment:	

Amendment 2912 (Louis Michel) Article 79 – paragraph 5 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;</i></b>	<b><i>deleted</i></b>
Comment:	

Amendment 2913 (Louis Michel) Article 79 – paragraph 5 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
<b><i>(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);</i></b>	<b><i>deleted</i></b>
Comment:	

Amendment 2914 (Stanimir Ilchev) Article 79 – paragraph 5 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);	(f) does not or not sufficiently maintain the documentation pursuant to <b>Article 14</b> , Article 28, Article 31(4), and Article 44(3);
Comment:	

Amendment 2915 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 5 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
(f) does not <i>or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3)</i> ;	(f) does not <i>report or ensure that it is able to report to the supervisory authority where required to do so and in the manner stipulated in this Regulation, except in the case of serious misconduct under the terms of this Regulation or the implementing legislation of the Member States</i> ;
Comment:	

Amendment 2916 (Alexander Alvaro) Article 79 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><b>(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></p> <p><b>(b) processes special categories of data in violation of Articles 9 and 81;</b></p> <p><b>(c) does not comply with an objection or the requirement pursuant to Article 19;</b></p> <p><b>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</b></p> <p><b>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</b></p> <p><b>(f) does not designate a representative pursuant to</b></p>	<p><b>deleted</b></p>

<p><b>Article 25;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(k) misuses a data protection seal or mark in the meaning of Article 39;</b></p> <p><b>(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;</b></p> <p><b>(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);</b></p> <p><b>(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);</b></p> <p><b>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</b></p>	
<p>Comment:</p>	

<p>Amendment 2917 (Axel Voss) Article 79 – paragraph 6</p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p><b>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:</b></p>	<p><b>deleted</b></p>



<p><i>(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;</i></p> <p><i>(b) processes special categories of data in violation of Articles 9 and 81;</i></p> <p><i>(c) does not comply with an objection or the requirement pursuant to Article 19;</i></p> <p><i>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</i></p> <p><i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i></p> <p><i>(f) does not designate a representative pursuant to Article 25;</i></p> <p><i>(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;</i></p> <p><i>(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></p> <p><i>(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;</i></p> <p><i>(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;</i></p> <p><i>(k) misuses a data protection seal or mark in the meaning of Article 39;</i></p> <p><i>(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;</i></p> <p><i>(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);</i></p> <p><i>(n) does not comply with the obligations to assist or respond or provide relevant information to, or</i></p>	
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<p><i>access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);</i></p> <p><i>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</i></p>	
<p>Comment:</p>	

Amendment 2918 (Adina-Ioana Vălean, Jens Rohde) Article 79 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<p><b>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:</b></p> <p><i>(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;</i></p> <p><i>(b) processes special categories of data in violation of Articles 9 and 81;</i></p> <p><i>(c) does not comply with an objection or the requirement pursuant to Article 19;</i></p> <p><i>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</i></p> <p><i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i></p> <p><i>(f) does not designate a representative pursuant to Article 25;</i></p> <p><i>(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;</i></p> <p><i>(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></p> <p><i>(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</i></p>	<p><i>deleted</i></p>

<p><b>33 and 34;</b></p> <p><b>(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;</b></p> <p><b>(k) misuses a data protection seal or mark in the meaning of Article 39;</b></p> <p><b>(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;</b></p> <p><b>(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);</b></p> <p><b>(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);</b></p> <p><b>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</b></p>	
<p>Comment:</p>	

<p><b>Amendment 2919 (Wim van de Camp)</b> <b>Article 79 – paragraph 6</b></p>	
<p><b>Commission Proposal</b></p>	<p><b>Amendment</b></p>
<p>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:</p> <p>(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;</p> <p>(b) processes special categories of data in violation of Articles 9 and 81;</p> <p>(c) does not comply with an objection or the requirement pursuant to Article 19;</p> <p>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</p>	<p>6. The supervisory authority <b>may</b> 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:</p> <p>(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;</p> <p>(b) processes special categories of data in violation of Articles 9 and 81;</p> <p>(c) does not comply with an objection or the requirement pursuant to Article 19;</p> <p>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</p> <p>(f) does not designate a representative pursuant to Article 25;</p>

<p><b><i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i></b></p> <p>(f) does not designate a representative pursuant to Article 25;</p> <p><b><i>(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;</i></b></p> <p>(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;</p> <p><b><i>(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;</i></b></p> <p><b><i>(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;</i></b></p> <p>(k) misuses a data protection seal or mark in the meaning of Article 39;</p> <p>(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;</p> <p>(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);</p> <p>(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 <b><i>Article 53(2)</i></b>;</p> <p>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</p>	<p>(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;</p> <p>(k) misuses a data protection seal or mark in the meaning of Article 39;</p> <p>(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;</p> <p>(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);</p> <p>(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 <b><i>Article 53(3)</i></b>;</p> <p><b><i>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</i></b></p>
<p>Comment: It could be logical if it were clearly stated that accountability measures must be taken into account during enforcement actions.</p>	

Amendment 2920 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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 <b>turnover</b> , to anyone who, intentionally or negligently:	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 <b>average</b> annual worldwide <b>profits</b> to anyone who intentionally or negligently:
Comment:	

Amendment 2921 (Dimitrios Droutsas) Article 79 – paragraph 6	
<i>Commission Proposal</i>	<i>Amendment</i>
<p>6. The supervisory authority shall impose a fine <b>up to</b> 1 000 000 EUR or, in case of an enterprise <b>up to</b> 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><i>(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;</i></p> <p><i>(b) processes special categories of data in violation of Articles 9 and 81;</i></p> <p><i>(c) does not comply with an objection or the requirement pursuant to Article 19;</i></p> <p><i>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</i></p> <p><i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i></p> <p><i>(f) does not designate a representative pursuant to Article 25;</i></p> <p><i>(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;</i></p> <p><i>(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></p> <p><i>(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation</i></p>	<p>6. The supervisory authority shall impose a fine <b>that shall not exceed</b> 1 000 000 EUR or, in case of an enterprise <b>5 %</b> of its annual worldwide turnover, to anyone who intentionally or negligently <b>infringes the provisions of this Regulation other than those referred to in paragraphs 4 and 5.</b></p>

<p><i>of the supervisory authority pursuant to Articles 33 and 34;</i></p> <p><i>(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;</i></p> <p><i>(k) misuses a data protection seal or mark in the meaning of Article 39;</i></p> <p><i>(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;</i></p> <p><i>(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);</i></p> <p><i>(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);</i></p> <p><i>(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.</i></p>	
<p>Comment: Increase turnover percentage to 5 % is positive.</p>	

<b>Amendment 2922 (Josef Weidenholzer, Birgit Sippel)</b> <b>Article 79 – paragraph 6</b>	
<b>Commission Proposal</b>	<b>Amendment</b>
<p>6. The supervisory authority shall impose a fine <b>up to</b> 1 000 000 EUR or, in case of an enterprise <b>up to</b> 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:</p> <p><i>(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;</i></p> <p><i>(b) processes special categories of data in violation of Articles 9 and 81;</i></p> <p><i>(c) does not comply with an objection or the requirement pursuant to Article 19;</i></p> <p><i>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</i></p> <p><i>(e) does not adopt internal policies or does not</i></p>	<p>6. The supervisory authority shall impose a fine <b>that shall not exceed</b> 1 000 000 EUR or, in case of an enterprise <b>5 %</b> of its annual worldwide turnover, to anyone who intentionally or negligently <b>infringes the provisions of this Regulation other than those referred to in paragraphs 4 and 5.</b></p>

***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.***

Comment: Increase turnover percentage to 5 % is positive.

Amendment 2923 (Louis Michel) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The supervisory authority <b>shall</b> impose a fine up to 1 000 000 EUR <b>or, in case of an enterprise up to 2 % of its annual worldwide turnover</b> , to anyone who, intentionally <b>or negligently</b> :	6. The supervisory authority <b>may</b> impose a fine up to 1 000 000 EUR to anyone who, intentionally:
Comment:	

Amendment 2924 (Nils Torvalds, Riikka Manner) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The supervisory authority shall <b>impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover</b> , to anyone who, intentionally or negligently:	6. The supervisory authority shall, <b>based on the gravity of the breach, impose a fine or warning</b> to anyone who, intentionally or negligently:
Comment:	

Amendment 2925 (Cornelia Ernst, Marie-Christine Vergiat) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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:	6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to <b>5 %</b> of its annual worldwide turnover, to anyone who, intentionally or negligently:
Comment:	

Amendment 2926 (Ewald Stadler) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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:	6. The supervisory authority shall impose a fine up to 1.000.000 EUR or, in case of <b>a breach with intent to make a profit by</b> an enterprise, up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:
Comment:	



Amendment 2927 (Timothy Kirkhope) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
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, <b>intentionally or negligently</b> :	6. The supervisory authority shall impose a fine <b>under the same criteria as listed in Article 79(4) for the most serious breaches</b> , up to <b>a maximum of</b> 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who:
Comment:	

Amendment 2928 (Sarah Ludford) Article 79 – paragraph 6 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
6. The supervisory authority <b>shall</b> 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:	6. The supervisory authority <b>may</b> 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:
Comment:	

Amendment 2929 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point c	
<i>Commission Proposal</i>	<i>Amendment</i>
(c) does not comply with an objection or the requirement pursuant to Article 19;	(c) does not comply with an objection or the requirement pursuant to Article 19 <b>unless duly justified by real and legitimate grounds or reasons in accordance with this Regulation</b> ;
Comment:	

Amendment 2930 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point d	
<i>Commission Proposal</i>	<i>Amendment</i>
<b>(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;</b>	<b>deleted</b>
Comment:	

Amendment 2931 (Louis Michel) Article 79 – paragraph 6 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i>	<i>deleted</i>
Comment:	

Amendment 2932 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point e	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;</i>	<i>deleted</i>
Comment:	

Amendment 2933 (Louis Michel) Article 79 – paragraph 6 – point f	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(f) does not designate a representative pursuant to Article 25;</i>	<i>deleted</i>
Comment:	

Amendment 2934 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point h	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(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>	<i>(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 <b>where mandatory</b> pursuant to Articles 31 and 32;</i>
Comment:	

Amendment 2935 (Louis Michel) Article 79 – paragraph 6 – point i	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>(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;</i>	<i>deleted</i>
Comment:	

Amendment 2936 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point i	
<i>Commission Proposal</i>	<i>Amendment</i>
(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;	(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 <b>where mandatory</b> pursuant to Articles 33 and 34;
Comment:	

Amendment 2937 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point j	
<i>Commission Proposal</i>	<i>Amendment</i>
(j) does not <b>designate a data protection officer or does not</b> ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;	(j) does not ensure <b>that the conditions are met to enable the Data Protection Officer to carry out</b> the tasks pursuant to Articles 35, 36 and 37;
Comment:	

Amendment 2938 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 – point k	
<i>Commission Proposal</i>	<i>Amendment</i>
(k) misuses a data protection seal <b>or</b> mark in the meaning of Article 39;	(k) misuses a data protection seal, mark <b>or certification</b> in the meaning of Article 39;
Comment:	

Amendment 2939 (Agustín Díaz de Mera García Consuegra) Article 79 – paragraph 6 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>6a. For the purpose of this article, the record of previous unappealable sanctions for infringements through negligence shall be expunged within the following periods:</i></p> <p><i>(a) two years if the sanctions are accompanied by any of the fines specified under paragraph 4;</i></p> <p><i>(b) four years if the sanctions are accompanied by any of the fines specified under paragraph 5;</i></p> <p><i>(c) six years if the sanctions are accompanied by any of the fines specified under paragraph 6.</i></p>
Comment:	

Amendment 2940 (Wim van de Camp) Article 79 – paragraph 6 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>6a. A fine for violations referred to in paragraph 6 can only be imposed for a particular processing of personal data. When determining a fine for a violation as referred to in this paragraph, the supervisory authority shall take into account the following facts and circumstances:</i></p> <p><i>(a) the extent to which the controller, or the main establishment as referred to in Article 22(4), has adopted internal policies and has implemented the measures referred to in Articles 22, 23 and 30 with respect to such processing;</i></p> <p><i>(b) the fact whether or not the controller, or the main establishment as referred to in Article 22(4), has designated a data protection officer pursuant to Article 35;</i></p> <p><i>(c) the extent to which the controller has allowed the data protection officer, if any, to perform his tasks as referred to in Article 37 with respect to such processing;</i></p> <p><i>(d) the extent to which the data protection officer, if any, was involved in the decision making with respect to such processing or in the implementation thereof;</i></p> <p><i>(e) the fact whether or not the controller has performed a privacy impact assessment with respect to such processing;</i></p>

	<p><i>(f) the fact whether or not the controller, where relevant, has complied with Article 26; and</i></p> <p><i>(g) the extent to which the controller has instructed the processor, if any, pursuant to Article 27.</i></p>
Comment:	

**Amendment 2941 (Agustín Díaz de Mera García Consuegra)**  
**Article 79 – paragraph 6 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>6b. For the purpose of this article, the record of previous unappealable sanctions for infringements committed through serious negligence or with intent shall be expunged within the following periods:</i></p> <p><i>(a) five years if the sanctions are accompanied by any of the fines specified under paragraph 4;</i></p> <p><i>(b) ten years if the sanctions are accompanied by any of the fines specified under paragraph 5;</i></p> <p><i>(c) fifteen years if the sanctions are accompanied by any of the fines specified under paragraph 6.</i></p>
Comment:	

**Amendment 2942 (Axel Voss)**  
**Article 79 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<p><i>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.</i></p>	<p><i>deleted</i></p>
Comment:	

**Amendment 2943 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 79 – paragraph 7**

<i>Commission Proposal</i>	<i>Amendment</i>
<p><i>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</i></p>	<p><i>deleted</i></p>

<i>in paragraph 2.</i>	
Comment:	

Amendment 2944 (Josef Weidenholzer) Article 79 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
<i>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.</i>	<i>deleted</i>
Comment:	

Amendment 2945 (Dimitrios Droutsas) Article 79 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
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.	7. The Commission shall be empowered to adopt, <b><i>after requesting an opinion of the European Data Protection Board</i></b> , delegated acts in accordance with Article 86 for the purpose of updating the <b><i>absolute</i></b> amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2 <b><i>and the development of standard costs of living.</i></b>
Comment:	

Amendment 2946 (Louis Michel) Article 79 – paragraph 7	
<i>Commission Proposal</i>	<i>Amendment</i>
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.	<b><i>7. Where convincing evidence exists of continued negligence or gross negligence by organisations in the execution of their responsibilities under this Regulation or the failure of these sanctions to deter serious abuses that cannot be addressed under the current framework.</i></b> The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts or conditions of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Comment:

Amendment 2947 (Sari Essayah) Article 79 – paragraph 7 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>7a. Article 79(4) to (7) shall not apply to public authorities. The supervisory authority shall not possess authority to define and impose fines on public authorities.</i>
Comment:	

Amendment 2948 (Sophia in 't Veld) Article 79 – paragraph 7 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>7a. The Commission shall bring forward a legislative proposal for the purpose of specifying the criteria and requirements for the joint and several liability of the board of the controller and the processor, and in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation within one year after the entry into force of this Regulation.</i>
Comment:	

Amendment 2949 (Sophia in 't Veld) Article 79 – paragraph 7 b (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>7b. The Commission shall bring forward a legislative proposal for the purpose of specifying the criteria and requirements for administrative and criminal sanctions against the board, in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation causing, or having caused, damage to data subjects, within one year after the entry into force of this Regulation.</i>
Comment:	

Amendment 2950 (Sophia in 't Veld) Article 79 – paragraph 7 c (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<b>7c. The Commission shall bring forward a legislative proposal for the purpose of specifying the conditions and criteria to guarantee the legal protection of whistleblowers within one year after the entry into force of this Regulation.</b>
Comment: Such protections are essential to ensure that abuses come to light without whistleblowers having to fear punishment.	

Amendment 2951 Article 80 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. <b>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</b>	1. <b>Chapter II (General principles), Chapter III (Rights of the data subject), Chapter IV (Controller and processor), Chapter V (Transfer of personal data to third countries and international organisations), Chapter VI (Independent supervisory authorities), Chapter VII (Co-operation and consistency) as well as Articles 73, 74, 76 and 79 of Chapter VIII (Remedies, liability and sanctions) shall not apply to 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.</b>
Comment: Article 80 is intended to provide “exemptions and derogations” from certain provisions in the Regulation – replacing the wording with “shall not apply” could undermine the right to the protection of personal data in the Regulation. Furthermore, the exception should be widened to “free expression” and not only “journalistic purposes or the purpose of artistic or literary expression”.	

Amendment 2952 (Birgit Sippel, Petra Kammerevert, Josef Weidenholzer) Article 80 – paragraph 1	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Member States shall provide for exemptions or derogations from the <b>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</b>	1. Member States shall provide for exemptions or derogations from the <b>entireties of chapters</b> Chapter II, Chapter III, Chapter IV, Chapter V, Chapter VI and <b>Chapter VII in order to reconcile the right to the protection of personal data with the rules governing freedom of expression in accordance with the Charter of Fundamental Rights of the European Union and its referral to the ECHR.</b>



<b><i>reconcile the right to the protection of personal data with the rules governing freedom of expression.</i></b>	
Comment: We support broadening the exception on freedom of expression, as it is not always clear when an exercise of the freedom of expression qualifies as “journalistic” or “artistic”	

Amendment 2953 (Cornelia Ernst) Article 80 – paragraph 1	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
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 <b><i>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.</i></b>	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 <b><i>whenever necessary to reconcile the right to the protection of personal data with the rules governing freedom of expression in accordance with the Charter of Fundamental Rights of the European Union and its referral to the ECHR.</i></b>
Comment: We support broadening the scope of the exception to “freedom of expression”. However, the Regulation (and all legislation in the EU) must be compliant with the Charter; there is no need to explicitly reference it here. Furthermore, the European Union is not yet party to the ECHR (but only individual Member States).	

Amendment 2954 (Judith Sargentini) Article 80 – paragraph 1	
<b><i>Commission Proposal</i></b>	<b><i>Amendment</i></b>
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 <b><i>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.</i></b>	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 <b><i>in order to reconcile the right to the protection of personal data with the rules governing freedom of expression in accordance with the Charter of Fundamental Rights of the European Union and its referral to the ECHR.</i></b>
Comment: We support broadening the scope of the exception to “freedom of expression”. However, the Regulation (and all legislation in the EU) must be compliant with the Charter; there is no need to explicitly	

reference it here. Furthermore, the European Union is not yet party to the ECHR (but only individual Member States).

Amendment 2955 (Dimitrios Droutsas)  
Article 80 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
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 <b>for the processing of personal data carried out solely for journalistic purposes or the purpose of artistic or literary expression</b> in order to reconcile the right to the protection of personal data with the rules governing 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 <b>whenever it is necessary</b> in order to reconcile the right to the protection of personal data with the rules governing freedom of expression <b>in accordance with the Charter of Fundamental Rights of the European Union</b> .

Comment: We support broadening the scope of the exception to “freedom of expression”. However, the Regulation (and all legislation in the EU) must be compliant with the Charter; there is no need to explicitly reference it here.

Amendment 2956 (Sarah Ludford, Charles Tannock)  
Article 80 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
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.	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 <b>and the provisions regarding processing concerning health and processing for historical, statistical and scientific research purposes in this chapter whenever this is necessary</b> 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.

Comment: The safeguards for the processing of personal data concerning health are addressed in Article 81 and are not necessary here.

Amendment 2957 (Louis Michel)  
Article 80 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. 1. <b>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.</b>	1. <b>Chapter II (General principles), Chapter III (Rights of the data subject), Chapter IV (Controller and processor), Chapter V (Transfer of personal data to third countries and international organisations), Chapter VI (Independent supervisory authorities), Chapter VII (Cooperation and consistency) as well as Articles 73, 74, 76 and 79 of Chapter VIII (Remedies, liability and sanctions) shall not apply to 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.</b>
Comment: Article 80 is intended to provide “exemptions and derogations” from certain provisions in the Regulation – replacing the wording with “shall not apply” could undermine the right to the protection of personal data in the Regulation. Furthermore, the exception should be widened to “free expression” and not only “journalistic purposes or the purpose of artistic or literary expression”.	

Amendment 2958 (Anna Maria Corazza Bildt)  
Article 80 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. <b>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.</b>	1. 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 <b>should not apply</b> for the processing of personal data carried out 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, <b>also taking into account technological development and new digital media.</b>
Comment: Article 80 is intended to provide “exemptions and derogations” from certain provisions in the Regulation – replacing the wording with “shall not apply” could undermine the right to the protection of personal data in the Regulation. Furthermore, the exception should be widened to “free expression” and not only “journalistic purposes or the purpose of artistic or literary expression”.	

Amendment 2959 (Axel Voss, Seán Kelly, Véronique Mathieu Houillon, Renate Sommer, Wim van de Camp, Lara Comi)  
Article 80 – paragraph 1

<i>Commission Proposal</i>	<i>Amendment</i>
1. <i>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.</i>	1. <i>Chapter II (general principles), Chapter III (the rights of the data subject), Chapter IV (the controller and processor), Chapter V (transfer of personal data to third countries and international organisations), Chapter VI (supervisory authorities), Chapter VII (cooperation and consistency) and Articles 73, 74, 76 and 79 of Chapters VIII (legal remedies, liability and penalties) and X shall not apply to 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.</i>
Comment: It is not clear what is intended by the addition of “and X” . Article 80 is intended to provide “exemptions and derogations” from certain provisions in the Regulation – replacing the wording with “shall not apply” could undermine the right to the protection of personal data in the Regulation.	

Amendment 2960  
Article 80 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. In order to reconcile the right to the protection of personal data with the principle of public access to official documents, personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Member State legislation regarding public access to official documents.</i>
Comment: This is outside of our purview.	

Amendment 2961 (Alexander Alvaro, Nadja Hirsch)  
Article 80 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. The European Data Protection Board shall issue guidance on when exemptions or derogations in accordance with paragraph 1 may be necessary, after consultation with representatives of the press, authors and artists, data subjects and civil society organisations.</i>

Comment: We welcome this addition to include oversight from the European Data Protection Board.

Amendment 2967  
Article 80 a (new)

*Commission Proposal*

*Amendment*

*Processing of personal data and public access to official documents*

*Personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Member State legislation regarding public access to official documents, which reconciles the right to the protection of personal data with the principle of public access to official documents.*

Comment: This is outside of our purview.

Amendment 2969 (Jan Philipp Albrecht)  
Article 80 a (new)

*Commission Proposal*

*Amendment*

*Article 80a*

*Access to documents*

*1. Member States may provide in their national legislation for rules necessary to reconcile the right of access to documents with the principles in Chapter 2.*

*2. Each Member State shall notify to the Commission 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.*

Comment: This is outside of our purview.

Amendment 2970 (Louis Michel)  
Article 80 a (new)

*Commission Proposal*

*Amendment*

*Article 80a*

*Member States may determine the conditions for processing a national identification number or any*

	<i>other identifier of general application.</i>
<p>Comment: It is unclear to us why this has been proposed. Article 80 refers to exceptions for the processing of personal data and freedom of expression – the processing of identification numbers is therefore not applicable here. It appears to be aimed at processing by member states for the purpose of managing such national identifiers, but fails to make this clear.</p>	

Amendment 2971 (Anna Hedh, Marita Ulvskog) Article 80 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><b>Article 80a</b></p> <p style="text-align: center;"><b><i>Processing of personal data and the principle of public access to official documents</i></b></p> <p style="text-align: center;"><b><i>This Regulation allows the principle of public access to official documents to be taken into account when applying the provisions set out in this Regulation. Personal data in documents held by a public authority or a public body may be disclosed by this authority or body in accordance with Member State legislation to which the public authority or public body is subject. Such legislation shall reconcile the right to the protection of personal data with the principle of public access to official documents.</i></b></p>
<p>Comment: This is outside of our purview.</p>	

Amendment 3049 Article 83 – title	
<i>Commission Proposal</i>	<i>Amendment</i>
Processing for historical, statistical and scientific <b>research</b> purposes	Processing for historical, statistical and scientific purposes
<p>Comment: These exceptions should be as prescriptive as possible to ensure legal clarity – research should stay in the text.</p>	

Amendment 3050 (Axel Voss) Article 83 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. <b><i>Within the limits of this Regulation</i></b> , personal data may be processed for historical, statistical or scientific research purposes only if:	1. Personal data may be processed for historical, statistical or scientific research purposes only if:
Comment: This amendment doesn't seem to change the meaning of the text since all articles are “within the limits of this Regulation”.	

Amendment 3051 (Adina-Ioana Vălean, Jens Rohde) Article 83 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific <b><i>research</i></b> purposes only if:	1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific purposes only if:
Comment: These exceptions should be as prescriptive as possible to ensure legal clarity – research should stay in the text.	

Amendment 3052 (Agustín Díaz de Mera García Consuegra) Article 83 – paragraph 1 – introductory part	
<i>Commission Proposal</i>	<i>Amendment</i>
1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific research purposes only if:	1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific research purposes, <b><i>or for the purposes of a preliminary official or administrative investigation to determine biological parentage</i></b> , only if:
Comment: Exceptions for the processing of data for historical, statistical and scientific research purposes must lay down a baseline standard that ensures legal clarity – specific examples can be determined on a case by case basis.	

Amendment 3053 Article 83 – paragraph 1 – point a	
<i>Commission Proposal</i>	<i>Amendment</i>
(a) these purposes cannot be otherwise fulfilled by processing <b><i>data which does not permit or not any longer permit the identification of the data subject</i></b> ;	(a) these purposes cannot be otherwise fulfilled by processing <b><i>anonymous data</i></b> ;
Comment: Given that data can be combined to easily identify particular individuals and the challenges around truly anonymising data, the Commission's formulation is much more accurate and accounts for this reality.	

Amendment 3054 (Sarah Ludford)  
Article 83 – paragraph 1 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(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.</i>	<i>deleted</i>
Comment: In order to ensure that data subjects maintain control over their personal data under the Regulation, this paragraph must remain in the text.	

Amendment 3055 (Timothy Kirkhope)  
Article 83 – paragraph 1 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(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.	(b) data enabling the attribution of information to an identified or identifiable data subject <i>where technically and practically possible</i> is kept separately from the other information as long as these purposes can be fulfilled in this manner.
Comment: Widening the conditions on which whether information can be attributable to an individual greatly undermines legal certainty and the rights of the data subject to maintain control over their personal data.	

Amendment 3056 (Agustín Díaz de Mera García Consuegra)  
Article 83 – paragraph 1 – point b

<i>Commission Proposal</i>	<i>Amendment</i>
(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.	(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. <i>The personal data being processed in the context of a preliminary official or administrative investigation to determine biological parentage shall only be communicated to data subjects when appropriate and without prejudice to the lodging of a criminal complaint if legal provision is made therefor.</i>
Comment: Exceptions for the processing of data for historical, statistical and scientific research purposes must lay down a baseline standard that ensures legal clarity – specific cases can be determined on a case by case basis.	



**Amendment 3057 (Claude Moraes, Glenis Willmott)**  
**Article 83 – paragraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) where data are to be processed for scientific research purposes, the proposed scientific research project has received a favourable opinion from an independent research ethics committee.</i>
Comment: We welcome this clarification on the restriction on the open-ended exceptions for undefined “research”.	

**Amendment 3058 (Axel Voss, Seán Kelly, Wim van de Camp, Véronique Mathieu Houillon, Renate Sommer, Monika Hohlmeier)**  
**Article 83 – paragraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) the personal data is processed for the purpose of generating aggregate data reports, wholly composed of either anonymous data, pseudonymous data or both.</i>
Comment: In the age of ubiquitous computing, the combination of data sets, particularly pseudonymised data, can lead to the singling out of an individual, therefore negatively impacting their privacy rights. This is far too broad and would therefore undermine the rights of the data subject.	

**Amendment 3059 (Nils Torvalds)**  
**Article 83 – paragraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) in case data is to be processed for scientific research purposes, the proposed scientific research project has received a favourable opinion from an independent research ethics committee.</i>
Comment: We welcome this clarification on the restriction on the open-ended exceptions for undefined “research”.	

**Amendment 3060 (Marian Harkin)**  
**Article 83 – paragraph 1 – point b a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) Member States law may provide for exceptions to the requirement of consent for research, as referred to in paragraph 1a, with regard to research that serves an exceptionally high public interests, if that research cannot possibly be carried out otherwise. The data in question shall be anonymised, or if that is not possible for the</i>

	<i>research purposes, pseudonymised under the highest technical standards, and all necessary measures shall be taken to prevent re-identification of the data subjects. Such processing shall be subject to prior authorisation of the competent supervisory authority, in accordance with Article 34(1).</i>
Comment: The safeguards provided in this exception to waive the requirement of consent for research are adequate to ensure the highest protection of the data subject's rights.	

<b>Amendment 3061</b> Article 83 – paragraph 1 – point b a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ba) the information processed cannot be linked to an identified or identifiable person.</i>
Comment: This does not seem to add much given the clarifications in paragraph 1(b).	

<b>Amendment 3062</b> Article 83 – paragraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible under point (b) of Article 5(1) provided that the processing:</i>  <i>(a) is subject to the conditions and safeguards of this Article; and</i> <i>(b) complies with all other relevant legislation.</i>
Comment: This addition is too broad and opens the door to processing that may infringe the rights of the data subject.	

<b>Amendment 3063 (Jens Rohde, Adina-Ioana Vălean)</b> Article 83 – paragraph 1 a (new)	
<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. Within the limits of this Regulation, especially this article, Member States may adopt specific regulations concerning the processing of personal data for scientific research purposes, in particular public health research.</i>

Comment: This exception is far too broad and could lead to varying interpretations in the Member States, undermining the very purpose of the Regulation (to harmonise the rules). We welcome the further clarification on this exception.

**Amendment 3064 (Cornelia Ernst)**  
**Article 83 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1a. The processing of personal data for purposes of opinion and social research shall be lawful if the data will be rendered anonymous at the earliest possible moment in such a way that the identification of the data subjects is no longer possible.</i></b>

Comment: Adding processing of personal data for the purposes of “opinion” greatly obscures legal clarity.

**Amendment 3065 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 83 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1a. Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible with Article 5(1)(b) provided that the processing:</i></b>  <b><i>(a) is subject to the conditions and safeguards of this Article; and</i></b>  <b><i>(b) complies with all other relevant legislation.</i></b>

Comment: This addition opens the door to processing that may infringe the rights of the data subject.

**Amendment 3066**  
**Article 83 – paragraph 1 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>1a. A person may give consent that sensitive data concerning that person may be used for non-specified historical, statistical or scientific research purposes without the person receiving information about each specific research project.</i></b>

Comment: The data subject's consent is addressed in paragraph 2(a) of the Regulation and so there is no need to repeat it here.

Amendment 3067  
Article 83 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. The data subject has given his or her consent for the processing of data for historical, statistical and scientific research. For the purposes of historical, statistical and scientific research, a one-time consent is enough and there is no need for explicit consent to be given each time by the data subject, or a need to notify the data subject, separately before the processing of data related to research purposes.</i>

Comment: The data subject's consent is addressed in paragraph 2(a) of the Regulation and so there is no need to repeat it here.

Amendment 3068 (Anna Hedh, Marita Ulvskog)  
Article 83 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. Further processing of sensitive personal data for medical research purposes may be allowed in line with relevant national and EU legislation and after a favourable opinion by an Ethics Committee.</i>

Comment: This addition obscures legal clarity and would undermine the rights of the data subject by weakening the grounds of consent.

Amendment 3069 (Sarah Ludford, Charles Tannock)  
Article 83 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1a. Further processing of data for historical, statistical or scientific research purposes shall not be considered as incompatible with Article 5(1)(b) provided that the processing:</i> <i>(a) is subject to the conditions and safeguards of this Article; and</i> <i>(b) complies with all other relevant legislation.</i>

Comment: This addition opens the door to processing that may infringe the rights of the data subject.

Amendment 3070  
Article 83 – paragraph 1 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>1b. Subject to the exception in paragraph 1b, data falling within the categories of data covered by Articles 8 and 9 may be processed for historical, statistical or scientific research only with the consent of the data subjects unless they will be rendered anonymous under adequate technical standards and at the earliest possible moment for the research purposes.</i>
Comment: This amendment obscures the meaning of “anonymous” data (which means it cannot be “re-identifiable”).	

Amendment 3072 (Sarah Ludford)  
Article 83 – paragraph 1 – point a

<i>Commission Proposal</i>	<i>Amendment</i>
(a) these purposes cannot <i>be otherwise fulfilled</i> by processing data which does not permit or not any longer permit the identification of the data subject;	(a) these purposes cannot <i>reasonably be achieved</i> by processing data which does not permit or not any longer permit the identification of the data subject; <i>and</i>
Comment: This amendment obscures legal clarity and weakens the protection of the data subject's rights.	

Amendment 3073 (Timothy Kirkhope)  
Article 83 – paragraph 2

<i>Commission Proposal</i>	<i>Amendment</i>
<i>2. Bodies conducting historical, statistical or scientific research may publish or otherwise publicly disclose personal data only if:</i>  <i>(a) the data subject has given consent, subject to the conditions laid down in Article 7;</i>  <i>(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</i>  <i>(c) the data subject has made the data public.</i>	<i>deleted</i>
Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely.	

Amendment 3074 (Claude Moraes, Glenis Willmott)  
Article 83 – paragraph 2 – introductory part

<i>Commission Proposal</i>	<i>Amendment</i>
2. Bodies <b>conducting</b> historical, statistical or scientific <b>research</b> may publish or otherwise publicly disclose personal data only if:	2. Bodies <b>using personal data for</b> historical, statistical or scientific <b>purposes</b> may publish or otherwise publicly disclose personal data only if:
Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely. This widens the scope of bodies processing personal data, creating an environment of less legal certainty as to who may access and process the data and for what reasons.	

Amendment 3075  
Article 83 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>2a. A controller or processor may transfer personal data to a third country or an international organisation for historical, statistical or scientific purposes if:</b>  <b>(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>  <b>(b) the recipient does not reasonably have access to data enabling the attribution of information to an identified or identifiable data subject; and</b>  <b>(c) contractual clauses between the controller or processor and the recipient of the data prohibit re-identification of the data subject and limit processing in accordance with the conditions and safeguards laid down in this Article.</b>
Comment: Broadening the scope of personal data that can be shared and transferred to countries (who may not have an adequate level of protection) could significantly undermine the rights of the data subject. Furthermore, transfer of personal data to third countries is dealt with in Chapter V.	

Amendment 3076 Axel Voss  
Article 83 – paragraph 2 a (new)

<i>Commission Proposal</i>	<i>Amendment</i>
	<b>2a. Where the data subject is required to give his/her consent for the processing of medical data exclusively for public health research purposes, the option of broad consent may be available to the data subject for the purposes of epidemiological, translational and clinical research.</b>  <b>Where personal data is collected for statistical and public health purposes, such data should</b>

	<i>be made anonymous immediately after the end of data collection, checking or matching operations, except if the identification data remain necessary for statistical, and public health purposes such as epidemiological, translational and clinical research.</i>
Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely. Furthermore, the formulation of “broad” consent has no accepted or proposed meaning.	

<b>Amendment 3077 (Adina-Ioana Vălean, Jens Rohde)</b> <b>Article 83 – paragraph 2 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>2a. A controller or processor may transfer personal data to a third country or an international organisation for historical, statistical or scientific purposes if:</i></p> <p><i>(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;</i></p> <p><i>(b) the recipient does not reasonably have access to data enabling the attribution of information to an identified or identifiable data subject; and</i></p> <p><i>(c) contractual clauses between the controller or processor and the recipient of the data prohibit re-identification of the data subject and limit processing in accordance with the conditions and safeguards laid down in this Article.</i></p>
Comment: Broadening the scope of personal data that can be shared and transferred to countries (who may not have an adequate level of protection) could significantly undermine the rights of the data subject. Furthermore, transfer of personal data to third countries is dealt with in Chapter V.	

<b>Amendment 3078 (Dimitrios Droutsas)</b> <b>Article 83 – paragraph 2 a (new)</b>	
<i>Commission Proposal</i>	<i>Amendment</i>
	<p><i>2a. Member States can adopt specific measures to regulate the processing of personal data for historical, statistical or scientific purposes while respecting the provisions of paragraphs 1 and 2 of this Article as well as respecting fundamental rights as enshrined in the Charter of fundamental rights of the European Union.</i></p>
Comment: The purpose of this addition is not clear (e.g. What could be meant by “specific measures” to regulate the processing). Also the Regulation (and all European legislation) is subject to the Charter, so	

there is no need to explicitly mention it here.

**Amendment 3079 (Sarah Ludford, Charles Tannock)**  
**Article 83 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. Where the data subject is required to give his/her consent under this article, the option of broad consent should be available.</i></b>
Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely. Furthermore, the formulation of “broad” consent has no accepted or proposed meaning.	

**Amendment 3080 (Marie-Christine Vergiat)**  
**Article 83 – paragraph 2 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2a. The collection and re-use of historical, statistical and scientific research data for commercial purposes shall not be compatible with this Regulation.</i></b>
Comment: It is not clear whether this amendment refers to the raw data or the outputs of the research. If it is the former, this is clearly a useful clarification. If it is the latter, this would require far more clarification in order to be clear.	

**Amendment 3081 (Dimitrios Droutsas)**  
**Article 83 – paragraph 2 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<b><i>2b. Each Member State shall notify to the Commission those provisions which it adopts pursuant to paragraph 1b, by the date specified in Article 91(2) at the latest and, without delay, any subsequent amendment affecting them.</i></b>
Comment: This falls outside of our purview.	

**Amendment 3082**  
**Article 83 – paragraph 2 – point a**

<i>Commission Proposal</i>	<i>Amendment</i>
(a) the data subject has given consent, subject to the conditions laid down in Article 7;	(a) the data subject has given consent, subject to the conditions laid down in Article 7; <b><i>or</i></b>



Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely. Paragraph (a) is a necessary component of Article 83.

**Amendment 3083 (Cornelia Ernst)**  
**Article 83 – paragraph 2 – point b**

<i>Commission Proposal</i>	<i>Amendment</i>
<i>(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</i>	<i>deleted</i>

Comment: This deletion is helpful on the condition that additional clarifications are covered in paragraph 2 (see EDRI's suggested amendments to Article 83 here: <http://protectmydata.eu/articles/articles-81-91/article-83/>)

**Amendment 3084 (Claude Moraes, Glenis Willmott)**  
**Article 83 – paragraph 2 – point c a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible with Article 5(1)(b) provided that the processing:</i>  <i>(i) is subject to the conditions and safeguards of this Article; and</i>  <i>(ii) complies with all other relevant legislation.</i>

Comment: The processing of personal data for such purposes should be circumscribed more (and not less) closely.

**Amendment 3085 (Adina-Ioana Vălean, Jens Rohde)**  
**Article 83 – paragraph 2 – point c a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<i>(ca) the personal data is processed for the purpose of generating aggregate data reports, wholly composed of either anonymous data, pseudonymous data or both.</i>

Comment: This addition is too broad and opens the door to processing that may infringe the rights of the data subject. In the age of ubiquitous computing, the combination of data sets, particularly pseudonymised data, can lead to the singling out of an individual, therefore negatively impacting their privacy rights.

**Amendment 3094 (Sarah Ludford, Charles Tannock)**  
**Article 83 – paragraph 3 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>3a. A controller or processor may transfer personal data to a third country or an international organisation for historical, statistical or scientific research purposes if:</b></p> <p><b>(a) these purposes cannot reasonably be fulfilled by processing data which does not permit or not any longer permit the identification of the data subject;</b></p> <p><b>(b) the recipient does not reasonably have access to data enabling the attribution of information to an identified or identifiable data subject; and</b></p> <p><b>(c) contractual clauses between the controller or processor and the recipient of the data prohibit re-identification of the data subject and limit processing in accordance with the conditions and safeguards laid down in this Article.</b></p>
<p>Comment: Broadening the scope of personal data that can be shared and transferred to countries (who may not have an adequate level of protection) could significantly undermine the rights of the data subject. Transfer of personal data to third countries is dealt with in Chapter V. Moreover, in the age of ubiquitous computing, the combination of data sets, particularly pseudonymised data, can lead to the singling out of an individual, therefore negatively impacting their privacy rights.</p>	

**Amendment 3095 (Sarah Ludford)**  
**Article 83 – paragraph 3 b (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p><b>3b. The provisions in this Article are without prejudice to exemptions or derogations which Member States should provide for under Article 80 in order to reconcile the right to the protection of personal data with the rules governing freedom of expression including as these relate to freedom of academic inquiry.</b></p>
<p>Comment: This article could be improved – it is not clear what is meant by “freedom of academic inquiry”. Furthermore, the Regulation (and all European legislation) is subject to the obligations of the Charter, so it is not necessary to make explicit reference to Article 13 (which is perhaps what the Baroness was alluding to).</p>	

**Amendment 3096 (Sarah Ludford)**  
**Article 83 a (new)**

<i>Commission Proposal</i>	<i>Amendment</i>
	<p style="text-align: center;"><b>Article 83a</b></p> <p style="text-align: center;"><b>Processing of criminal convictions data for the purpose of the prevention of financial crime</b></p> <p style="text-align: center;"><b>Within the limits of this Regulation and in</b></p>

	<p><i>accordance with Article 9(2)(j), processing of personal data concerning criminal convictions or related security measures shall be permitted if it provides for appropriate measures to protect the data subject's fundamental rights and freedoms and is for:</i></p> <p><i>(a) the purposes of the prevention, investigation or detection of financial crime; or</i></p> <p><i>(b) reasons of public interest such as protecting against cross-border threats of financial crime, and in either case, must necessarily be carried out without the consent of the data subject being sought so as not to prejudice those purposes.</i></p>
<p>Comment: The scope of this amendment and the scope of what it would permit beyond the existing exceptions in the Regulation are far from clear. This lack of clarity would undermine the quality of the Regulation.</p>	