Protection of personal data in the context of elections to the European Parliament

2018/0336(COD) - 12/09/2018 - Legislative proposal

PURPOSE: to discourage European political parties and European political foundations from taking advantage of the results of infringements of the data protection rules with a view to deliberately influencing the outcome of the elections to the European Parliament.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with council.

BACKGROUND: recent events have demonstrated the potential risks associated with the **illicit use of personal data** in relation to electoral processes and democracy. In 2018, the ***Facebook/Cambridge Analytica*** case concerning the alleged unlawful processing of user personal data acquired from Facebook by the company Cambridge Analytica raised serious concerns on the impact of data protection infringements on electoral processes. Investigations are ongoing in relation to this particular case, inter alia by the UK data protection supervisory authority which is leading the European investigation. The U. S. Federal Trade Commission has opened an investigation on the case. A series of hearings took place in the European Parliament on the case and its impact on individuals' personal data in the Union

Regulation (EU, Euratom) No 1141/2014 established a specific European legal status for European political parties and European political foundations and provides for their funding from the general budget of the European Union. It also establishes an Authority for European political parties and European political foundations. This Authority is in particular responsible for examining cases in which these entities are suspected of not respecting European fundamental values.

However, the existing rules do not effectively dissuade and sanction abuses of data protection rules which may affect the democratic debate and free elections. The Commission feels it is necessary to **protect the integrity of the European democratic process** by providing for financial sanctions in situations where European political parties and European political foundations take advantage of infringements of data protection rules with a view to influencing the outcome of elections to the European Parliament.

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

The proposal provides that a **verification procedure** is established whereby the Authority must, in certain circumstances, ask the committee of independent eminent persons to assess whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data. Where the committee finds that to be the case, the Authority should impose **effective, proportionate and dissuasive sanctions.** Any party or foundation found guilty of a violation may not apply for funding from the general budget of the European Union for the year in which the sanction was imposed. The Authority shall request the opinion without undue delay and no later than 1

month after the decision of the supervisory authority. The committee shall deliver its opinion within a short, reasonable deadline set by the Authority.

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

Lastly, in order to enable the Authority to operate in an independent and effective manner, the Commission proposes that the latter has its own **permanent staff** and proposes also to confer the powers of an appointing authority on the Director of the Authority.

BUDGETARY IMPLICATIONS: to ensure the effectiveness of this proposal, the Authority will be provided with more permanent staff to the extent that additional tasks are entrusted to it. The financial impact is estimated at **EUR 10.1 million** (EUR 1.43 million per year). More permanent staffing provisions will be made through the redeployment of existing resources, and will require the modification of the establishment plans of the contributing institutions. Therefore, these elements will be included in the forthcoming Amending Letter to Draft Budget 2019.