Basic information

2017/0002(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data Repealing Regulation (EC) No 45/2001 1999/0153(COD) Repealing Decision No 1247/2002/EC 2001/2150(ACI) **Subject** 1.20.09 Protection of privacy and data protection 8.40 Institutions of the Union 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	ERNST Cornelia (GUE/NGL)	09/03/2017
	Shadow rapporteur VOSS Axel (PPE) LAURISTIN Marju (S&D) PROCTER John (ECR) MLINAR Angelika (ALDE) ALBRECHT Jan Philipp (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
JURI Legal Affairs	DZHAMBAZKI Angel (ECR)	28/02/2017

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3641	2018-10-12
Justice and Home Affairs (JHA)	3546	2017-06-08

European Commission	Commission DG	Commissioner
	Justice and Consumers	JOUROVÁ Věra

Key events

Date	Event	Reference	Summary
10/01/2017	Legislative proposal published	COM(2017)0008	Summary
03/04/2017	Committee referral announced in Parliament, 1st reading		
12/10/2017	Vote in committee, 1st reading		
12/10/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
23/10/2017	Committee report tabled for plenary, 1st reading	A8-0313/2017	Summary
23/10/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
25/10/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
12/09/2018	Debate in Parliament		
13/09/2018	Decision by Parliament, 1st reading	T8-0348/2018	Summary
13/09/2018	Results of vote in Parliament		
12/10/2018	Act adopted by Council after Parliament's 1st reading		
23/10/2018	Final act signed		
23/10/2018	End of procedure in Parliament		
21/11/2018	Final act published in Official Journal		

Technical information

Procedure reference	2017/0002(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 45/2001 1999/0153(COD) Repealing Decision No 1247/2002/EC 2001/2150(ACI)
Legal basis	Treaty on the Functioning of the European Union TFEU 016-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/08983

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE605.954	08/06/2017	
Amendments tabled in committee		PE608.066	12/07/2017	
Committee opinion	JURI	PE605.974	05/10/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0313/2017	23/10/2017	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0348/2018	13/09/2018	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2018)008163	16/10/2018	
Draft final act	00031/2018/LEX	24/10/2018	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2017)0008	10/01/2017	Summary
Commission response to text adopted in plenary	SP(2018)724	13/11/2018	
Follow-up document	COM(2022)0530	14/10/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2017)0008	04/04/2017	
Contribution	PT_PARLIAMENT	COM(2017)0008	19/04/2017	
Contribution	ES_PARLIAMENT	COM(2017)0008	08/05/2017	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N8-0028/2017 OJ C 164 24.05.2017, p. 0002	15/03/2017	Summary
EESC	Economic and Social Committee: opinion, report	CES0689/2017	31/05/2017	

Additional information

Source	Document	Date

European Parliament	Briefing	
European Commission	EUR-Lex	

Final act
Regulation 2018/1725 OJ L 295 21.11.2018, p. 0039 Summary

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data

2017/0002(COD) - 10/01/2017 - Legislative proposal

PURPOSE: to enhance the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

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 and on an equal footing with the Council.

BACKGROUND: the protection of natural persons in relation to the processing of personal data is a fundamental right. Moreover, in Article 16(2) TFEU, the Lisbon Treaty introduced a specific legal basis for adopting rules on the protection of personal data.

Regulation (EC) No 45/2001 of the European Parliament and of the Council provides natural persons with legally enforceable rights, specifies the data processing obligations of controllers within the Community institutions and bodies, and creates an independent supervisory authority, the European Data Protection Supervisor, responsible for monitoring the processing of personal data by the Union institutions and bodies.

However, it **does not apply to the processing of personal data in the course of an activity of Union institutions and bodies** which fall outside the scope of Union law.

Regulation (EU) 2016/679 of the European Parliament and of the Council (**General Data Protection Regulation**) and Directive (EU) 2016/680 of the European Parliament and of the Council were adopted on 27 April 2016. While the Regulation lays down general rules to protect natural persons in relation to the processing of personal data and to ensure the free movement of personal data within the Union, the Directive lays down the specific rules to protect natural persons in relation to the processing of personal data and to ensure the free movement of personal data within the Union in the fields of judicial cooperation in criminal matters and police cooperation.

Regulation (EU) 2016/679 stresses the need for the necessary adaptations of Regulation (EC) No 45/2001 in order to provide a strong and coherent data protection framework in the Union and to allow application at the same time as Regulation (EU) 2016/679.

It is in the interest of a coherent approach to personal data protection throughout the Union, and of the free movement of personal data within the Union, to **align as far as possible the data protection rules** for Union institutions and bodies with the data protection rules adopted for the public sector in the Member States.

CONTENT: in order to align the existing rules, which date back to 2001, with the newer and more stringent rules set out by the General Data Protection Regulation of 2016, the Commission has proposed the following:

Objective: this proposed Regulation has a two-fold objective:

- to protect the fundamental right to data protection and to guarantee the free flow of personal data throughout the Union;
- to provide for the main tasks of the European Data Protection Supervisor (EDPS).

Scope: the proposal shall apply to the processing of personal data, by **automated means or otherwise**, by all Union institutions and bodies insofar as such processing is carried out in the exercise of activities all or part of which fall within the scope of Union law. The material scope of this Regulation is technologically neutral. The protection of personal data applies to the processing of personal data by automated means, as well as to **manual processing** if the personal data are contained or are intended to be contained in a filing system.

Levels of protection: new principles of transparency and of integrity and confidentiality have been incorporated into the new text. Further conditions for the lawfulness of the processing of personal data of children in relation to information society services offered directly to them. It sets 13 years as the child's minimum age for valid consent. New rules are provided for a specific level of protection on the transmission of personal data to recipients, other

than Union institutions and bodies. The proposal clarifies that, where it is the controller initiating the transmission, it should demonstrate necessity and proportionality of the transmission.

Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be **prohibited**.

Data controller's obligations: the proposal specifies the controller's information obligations towards the data subject where personal data are collected from the data subject, providing information to the data subject, including on the storage period, the right to lodge a complaint and in relation to international transfers.

Personal data must remain confidential subject to an obligation of professional secrecy regulated by Union law. This could apply for example in proceedings by services competent for social security or health matters.

Further modalities are provided to facilitate the exercise of the data subject's rights under this Regulation, including mechanisms to request and, if applicable, obtain, **free of charge**, in particular, access to and rectification or erasure of personal data and the exercise of the right to object.

Obligations for EU institutions: the proposal provides for an obligation for Union institutions and bodies to inform the EDPS when drawing up administrative measures and internal rules relating to the processing of personal data. It also provides for an obligation for the Commission to consult the EDPS following the adoption of proposals for a legislative act and of recommendations or proposals to the Council and when preparing delegated acts or implementing acts that have an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data.

Provisions are also laid down concerning the transfer of personal data to third countries or international organisations.

EDPS: specific provisions are laid down as regards the appointment of the EDPS by the European Parliament and the Council, the duration of its term of office: five years; the general conditions governing the performance of duties of the EDPS and his or her staff and the financial resources.

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data

2017/0002(COD) - 13/09/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 527 votes to 51, with 27 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Scope: the Regulation would apply to the processing of personal data by **all Union institutions, bodies, offices and agencies** when carrying out activities which fall within **the scope of Chapters 4 (judicial cooperation in criminal matters) and 5 (police cooperation)** of Title V of Part Three of the TFEU for the purpose of the prevention, investigation, detection and prosecution of criminal offences.

However, it shall only apply to Europol or the European Public Prosecutor's Office once the legal acts establishing Europol and the European Public Prosecutor's Office have been adapted.

The Regulation shall not apply to the processing of personal data by tasks referred to in Articles 42(1), 43 and 44 of the Treaty on European Union, which implement the common security and defence policy

Transmission of personal data between Union institutions and bodies: personal data shall be processed on the basis of the necessity for the performance of a task carried out in the **public interest**. The controller shall determine whether there are grounds to believe that such transmission could harm the legitimate interests of the data subject.

Where the controller initiates the transmission under this Article, it shall demonstrate that the transmission of personal data is necessary for and proportionate to the purposes of the transmission.

Union institutions and bodies shall reconcile the right to the protection of personal data with the right of access to documents in accordance with Union law.

Restrictions: the Regulation provides that the legal acts adopted on the basis of the Treaties or, in matters relating to the operation of the Union institutions and bodies, internal rules laid down by the latter may restrict the exercise of the rights of the person concerned.

The **internal rules** shall be clear and precise acts of general application, adopted at the highest level of management of the Union institutions and bodies and published in the Official Journal of the European Union. These rules shall be **foreseeable** to persons subject to them, in particular when adopted by Union institutions.

In particular, any legal act or internal rule shall contain specific provisions, where relevant, as to:

- the purposes of the processing or categories of processing;
- the categories of personal data;
- the scope of the restrictions introduced;
- the safeguards to prevent abuse or unlawful access or transfer;
- the specification of the controller or categories of controllers;
- the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing; and
- the risks to the rights and freedoms of data subjects.

Special categories of personal data: processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited by the Regulation.

Special categories of personal data which merit higher protection shall be processed for **health-related purposes** only where necessary to achieve those purposes for the benefit of natural persons and society as a whole, in particular in the context of the management of health or social care services and systems. Therefore, this Regulation shall provide for harmonised conditions for the processing of special categories of personal data concerning health.

European Data Protection Supervisor (EDPS): the amended Regulation stipulates that the **European Parliament and the Council** shall appoint the European Data Protection Supervisor by common accord for a term of five years, on the basis of a list drawn up by the Commission following a public call for candidates. On the basis of the list drawn up by the Commission, the competent committee of the European Parliament may decide to hold a hearing in order to enable it to express a preference.

The EDPS shall, *inter alia*, have the following tasks: (i) monitor and enforce the application of this Regulation by Union institutions and bodies, with the exception of the processing of personal data by the Court of Justice acting in its judicial capacity; (ii) advise, on his or her own initiative or on request, all Union institutions and bodies on legislative and administrative measures relating to the protection of natural persons' rights and freedoms with regard to the processing of personal data.

Effective judicial remedy: the Court of Justice shall have jurisdiction to hear all disputes relating to the provisions of this Regulation, including claims for damages. Any person who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the controller or processor for the damage suffered.

Prevention and detection of criminal offences (activities falling within the scope of Part Three, Title V, Chapter 4 or 5 of the TFEU): Directive (EU) 2016/680 sets out harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

In order to ensure the same level of protection for natural persons through legally enforceable rights throughout the Union, the rules for the protection and the free movement of operational personal data processed by such Union bodies, offices or agencies should be consistent with Directive (EU) 2016/680.

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data

2017/0002(COD) - 21/11/2018 - Final act

PURPOSE: to enhance the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies.

LEGISLATIVE ACT: Regulation (EU) 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

CONTENT: the Regulation lays down rules on the protection of individuals with regard to the processing of personal data by the Union's institutions and bodies and rules on the free movement of personal data between those institutions and bodies or to other recipients established in the Union. It aims to:

- protect the fundamental right to data protection and ensure the free movement of personal data throughout the Union;

- allow the European Data Protection Supervisor (EDPS) to monitor the application of the provisions of the Regulation to all processing operations carried out by a Union institution or body.

General principles

Personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’). In the case of children under 13 years of age, the processing shall only be lawful if the consent is given or authorised by the holder of parental responsibility for the child;

- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 13, not be considered to be incompatible with the initial purposes;

- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’);

- accurate and, where necessary, 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;

- 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;

- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The Regulation prohibits the processing of personal data revealing racial or ethnic origin, political opinions, religion or beliefs or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning the sex life or sexual orientation of a natural person.

Transmission of personal data between Union institutions and bodies

Personal data shall be processed on the basis of the necessity for the performance of a task carried out in the public interest. The controller shall determine whether there are grounds to believe that such transmission could harm the legitimate interests of the data subject. In such cases, the controller shall demonstrably weigh the various competing interests in order to assess the proportionality of the requested transmission of personal data.

Rights of the data subject

Natural persons should be made aware of risks, rules, safeguards and rights in relation to the processing of personal data and how to exercise their rights in relation to such processing.

The Regulation provides that the legal acts adopted on the basis of the Treaties or, in matters relating to the operation of the Union institutions and bodies, internal rules laid down by the latter may restrict the exercise of the rights of the person concerned.

The **internal rules** shall be clear and precise acts of general application, adopted at the highest level of management of the Union institutions and bodies and published in the Official Journal of the European Union. These rules shall be foreseeable to persons subject to them, in particular when adopted by Union institutions.

In particular, any legal act or internal rule shall contain specific provisions, where relevant, as to: (i) the purposes of the processing or categories of processing; (ii) the categories of personal data; (iii) the scope of the restrictions introduced; (iv) the safeguards to prevent abuse or unlawful access or transfer; (v) the specification of the controller or categories of controllers; (vi) the storage periods and the applicable safeguards; (vii) the risks to the rights and freedoms of data subjects.

Obligations of the controller

The Regulation specifies the information obligations of the controller towards the data subject when personal data are obtained from that person, by providing information to the data subject, including information on the period of data storage, the right to lodge a complaint and international transfers of data.

Personal data must remain confidential and be subject to an obligation of professional secrecy regulated by Union law. This may apply, for example, in social security or health procedures.

Obligations of the EU institutions

The Regulation provides for an obligation for the Union institutions and bodies to inform the European Data Protection Supervisor when drawing up administrative measures and internal rules relating to the processing of personal data. It also provides for the Commission to consult the EDPS following the adoption of proposals for legislative acts and recommendations or proposals to the Council and when preparing delegated or implementing acts having an impact on the protection of rights and freedoms with regard to the processing of personal data.

ENTRY INTO FORCE: 11.12.2018. The Regulation shall apply to the processing of personal data by Eurojust from 12.12.2019.

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data

2017/0002(COD) - 23/10/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Cornelia ERNST (GUE/NGL, DE) on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Scope of the Regulation: Members stated that the Regulation shall also apply to Union agencies carrying out activities which fall within the scope of chapters 4 (judicial cooperation in criminal matters) and 5 (police cooperation) under Title V of Part Three TFEU, **including where the founding acts of these Union agencies lay down a standalone data protection regime** for the processing of operational personal data. Provisions relating to specific processing of operational personal data contained in the founding acts of these agencies may particularise and complement the application of this Regulation.

The provisions on the specific processing of data contained in the founding acts of the agencies shall clarify and complete the application of the Regulation.

Transfer of personal data between Union institutions and bodies: such a transfer shall only be possible if the data are necessary for the legitimate performance of tasks falling within the competence of the recipient. The controller shall verify the competence of the recipient and provisionally evaluate the necessity for the transfer of such data.

Transmission of personal data to recipients established in the Union: personal data may only be transmitted to recipients established in the Union and subject to the General Data Protection Regulation (Regulation (EU) 2016/679) or the national rules adopted pursuant to Directive (EU) 2016/680 only if the controller demonstrates, on the basis of a reasoned request from the recipient that the transmission is proportionate and **necessary for the purposes of serving the public interest** such as transparency or good administration and after having demonstrably weighed the various competing interests.

Restrictions: the proposal provides that legal acts adopted on the basis of the Treaties or, for matters concerning the functioning of the Union's institutions or bodies, internal rules laid down by them may restrict the exercise of the rights of the data subject. Members proposed to **delete the possibility for Union institutions, bodies, offices and agencies to restrict the exercise of data subject's rights by way of internal rules**.

It is also specified that legal acts adopted on the basis of treaties to restrict the exercise of the rights of the person concerned shall be **clear and precise** . Their application shall be foreseeable to persons subject to it.

In particular, any legal act shall contain specific provisions at least, where relevant, as to: (i) the purposes of the processing; (ii) the categories of personal data; (iii) the scope of the restriction introduced; (iv) the safeguards to prevent abuse or unlawful access or transfer; (v) the specification of the controller or categories of controllers; (vi) the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing; (vii) the risks to the rights and freedoms of data subjects; and (viii) the right of data subjects to be informed about the restriction.

Approved certification mechanisms and codes of conduct: under the proposal, the controller should implement technical and organisational measures to ensure that processing is done in accordance with the Regulation and is able to demonstrate it.

Members inserted a provision stating that adherence to approved certification mechanisms as referred to in Article 42 of Regulation (EU) 2016/679 may be used as an element by which to **demonstrate compliance with the obligations of the controller**.

Adherence to an approved code of conduct may be used as an element by which to demonstrate compliance.

Register of processing activities: Union institutions and bodies shall be **obliged** to keep their records of processing activities in a central register and make the register publicly accessible.

Independent monitoring by the European Data Protection Supervisor (EDPS): all institutions and bodies, including the Court of Justice, shall be subject to independent supervision by the EDPS. Members proposed that the European Parliament and the Council appoint, by common accord, the EDPS for a period of five years, on the basis of a list drawn up jointly by the European Parliament, the Council and the Commission following a public call for candidates.

The EDPS and the national supervisory authorities, acting within the scope of their respective competencies, shall cooperate in the framework of their responsibilities in order to ensure effective and coordinated control of large-scale IT systems or Union bodies, offices or agencies.

Alignment with the General Data Protection Regulation: Members tabled a number of amendments aimed at aligning this proposed Regulation with the General Data Protection Regulation in order to streamline these two texts as much as possible and to make ensure that the Union is kept to the same standards as the Member States when it comes to data protection.

The provisions introduced by the Members include the following aspects:

- **principles relating to the processing of operational personal data**: for example, data lawfully and fairly processed, collected for specified, explicit and legitimate purposes, kept in a form that enables the data subject to be identified for no longer than not necessary, processed to ensure appropriate data security;
- **prohibition of treatment of particular categories of data** revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; processing of genetic and biometric data, data relating to health or a person's sexual life or sexual orientation;
- distinction between different categories of data subjects;
-

- specific processing conditions;
- transmission of operational personal data to other Union institutions and bodies;
- information to be made available or given to the data subject;
- the right of access of the data subject and limitations of the right of access; right of rectification or erasure;
- transfer of operational personal data to third countries.

Review clause: no later than 1 June 2021, and every five years thereafter, the Commission shall report on the application of the Regulation, accompanied, if necessary, by appropriate legislative proposals.

Protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and the free movement of such data

2017/0002(COD) - 15/03/2017 - Document attached to the procedure

EDPS Opinion on the proposal for a regulation on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

Overall, the EDPS considered the proposal successful in aligning the rules for EU institutions with the General Data Protection Regulation (GDPR), while taking the specificities of the EU public sector into account. The high level of protection regarding data processing by EU institutions is generally preserved in the proposal.

The EDPS considered that the **proposal should be further improved**, notably regarding:

The modalities for restrictions of the person concerned: the proposal would need to be amended to the effect that only legal acts adopted on the basis of the Treaties should be able to restrict fundamental rights.

The EU legislator is called upon to ensure that the possible restrictions of the fundamental right to privacy of communications by EU institutions in their own operations follows the same standards as laid down in Union law as interpreted by the Court of Justice in this domain.

The possibility for the EU institutions to use, in certain contexts, certification mechanisms: the EDPS considered that certification mechanisms may be a very useful instrument for EU institutions and they are already being used in certain contexts, e.g. certifying compliance with generally accepted standards.

Therefore, references to the use of certification should therefore be added to the provisions on the ‘Responsibility of the controller’, ‘Data protection by design and by default’, as well as to ‘Security’.

Further recommendations: the EDPS welcomed the fact that the proposal includes a separate article dedicated to the role of the EDPS as an advisor to EU institutions. He suggested however the addition of a recital in which the Commission should reaffirm its long-standing commitment to consult the EDPS on draft proposals in an **informal manner**.

The EDPS also considered that the possibility to **outsource the function of a Data Protection Officers** is not suitable for EU institutions exercising public authority.

It is essential that the revised rules become fully applicable at the same time as the GDPR i.e. on 25 May 2018. It encouraged the EU legislator to reach agreement on the proposal as swiftly as possible so as to allow EU institutions to benefit from a reasonable transition period before the new Regulation can become applicable at the same time as the GDPR.