Basic information

2021/0399(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Exchange of information and cooperation concerning terrorist offences: alignment with Union rules on the protection of personal data Amending JHA act 2005/671 2004/0069(CNS) **Subject** 1.20.09 Protection of privacy and data protection 7.30.05 Police cooperation 7.30.20 Action to combat terrorism **Legislative priorities** Joint Declaration 2023-24	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Civil Liberties, Justice and Home Affairs	JAKI Patryk (ECR)	20/04/2022
		Shadow rapporteur VINCZE Loránt (EPP) ROBERTI Franco (S&D) TUDORACHE Dragoş (Renew) BRICMONT Saskia (Greens/EFA) LAPORTE Hélène (ID) ERNST Cornelia (The Left)	
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Migration and Home Affairs	JOHANSSON Ylva	

Key events

Date	Event	Reference	Summary
		COM(2021)0767	Summary

01/12/2021	Legislative proposal published		
17/01/2022	Committee referral announced in Parliament, 1st reading		
01/03/2023	Vote in committee, 1st reading		
01/03/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
06/03/2023	Committee report tabled for plenary, 1st reading	A9-0041/2023	Summary
13/03/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
15/03/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
29/06/2023	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE749.254 GEDA/A/(2023)003637	
12/07/2023	Decision by Parliament, 1st reading	T9-0276/2023	Summary
12/07/2023	Results of vote in Parliament		
18/09/2023	Act adopted by Council after Parliament's 1st reading		
04/10/2023	Final act signed		
11/10/2023	Final act published in Official Journal		

Technical information

Procedure reference	2021/0399(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending JHA act 2005/671 2004/0069(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 016-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/07849

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE734.464	14/07/2022	
Amendments tabled in committee		PE736.475	14/09/2022	
Committee report tabled for plenary, 1st reading/single reading		A9-0041/2023	06/03/2023	Summary
Text agreed during interinstitutional negotiations		PE749.254	31/05/2023	
Text adopted by Parliament, 1st reading/single reading		T9-0276/2023	12/07/2023	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2023)003637	31/05/2023	
Draft final act	00030/2023/LEX	04/10/2023	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2021)0767	01/12/2021	Summary
Commission response to text adopted in plenary	SP(2023)459	30/10/2023	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2023/2123
OJ L 000 11.10.2023, p. 0000 Summary

Exchange of information and cooperation concerning terrorist offences: alignment with Union rules on the protection of personal data

2021/0399(COD) - 01/12/2021 - Legislative proposal

PURPOSE: to amend Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data.

PROPOSED ACT: Directive 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: Directive (EU) 2016/680 of the European Parliament and of the Council provides for 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 (Data Protection Law Enforcement Directive). The Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.

Council Decision 2005/671/JHA lays down specific rules on the exchange of information and cooperation concerning terrorist offences. In order to ensure a consistent approach to the protection of personal data in the Union, that Decision should be amended to align it with Directive (EU) 2016/680.

In the interest of clarity, the references contained in Decision 2005/671/JHA to the legal instruments governing the operation of the European Union Agency for Law Enforcement Cooperation (Europol) should be updated.

CONTENT: this proposal aims to:

- align Council Decision 2005/671/JHA with the principles and rules laid down in the Data Protection Law Enforcement Directive, in order to ensure consistent approach to protection afforded to persons regarding the processing of personal data in order to: (i) specify that the processing of personal

data under Council Decision 2005/671/JHA can only take place for the prevention, investigation, detection and prosecution of terrorist offences, in line with the purpose limitation principle; (ii) stipulate that the categories of personal data that can be exchanged should be defined more precisely by Union or Member State law.

Exchange of information and cooperation concerning terrorist offences: alignment with Union rules on the protection of personal data

2021/0399(COD) - 06/03/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Patryk JAKI (ECR, PL) on the proposal for a directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data.

As a reminder, this proposal aims to align Council Decision 2005/671/JHA with the principles and rules laid down in the Data Protection Law Enforcement Directive (Directive (EU) 2016/680) in order to ensure consistent approach to protection afforded to persons regarding the processing of personal data in order to: (i) specify that the processing of personal data under Council Decision 2005/671/JHA can only take place for the prevention, investigation, detection and prosecution of terrorist offences, in line with the purpose limitation principle; (ii) stipulate that the categories of personal data that can be exchanged should be defined more precisely by Union or Member State law.

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

Members proposed to amend Decision 2005/671/JHA to ensure the appropriate safety of the protection of personal data. They stressed that:

- each Member State should ensure that personal data is processed only for the purpose of the prevention, investigation, detection or prosecution of terrorist offences in compliance with Union law on data protection;

- to ensure the uniform and consistent protection of natural persons with regard to the processing of their personal data, such data should be transferred in compliance with the relevant security requirements;

- exchanges of categories of personal data should be pursued in accordance with the security requirements, safeguards and data protection guarantees set out in Union law on data protection.

Exchange of information and cooperation concerning terrorist offences: alignment with Union rules on the protection of personal data

2021/0399(COD) - 12/07/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 648 votes to 3, with 1 abstention, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA as regards compliance with European Union rules on the protection of personal data.

As a reminder, this proposal aims to align Council Decision 2005/671/JHA with the principles and rules laid down in the Data Protection Law Enforcement Directive (Directive (EU) 2016/680) in order to ensure consistent approach to protection afforded to persons regarding the processing of personal data in order to: (i) specify that the processing of personal data under Council Decision 2005/671/JHA can only take place for the prevention, investigation, detection and prosecution of terrorist offences, in line with the purpose limitation principle; (ii) stipulate that the categories of personal data that can be exchanged should be defined more precisely by Union or Member State law.

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

Provision of information concerning terrorist offences to Europol and the Member States

The application of Decision 2005/671/JHA, which involves the processing, including the exchange and further use, of information concerning terrorist offences, requires the processing of personal data.

The amended text specifies that in the interests of consistency and effectiveness of the protection of such personal data, the processing of personal data under Decision 2005/671/JHA must comply with Union law, as well as with the security requirements, safeguards and data protection guarantees laid down in other instruments of Union law which contain provisions on data protection, in particular Regulation (EU) 2016/794 on the European Union Agency for Law Enforcement Cooperation and Regulation (EU) 2018/1725 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 is consistent with national law.

Transposition

The directive should be transposed no later than two years after its entry into force.

Exchange of information and cooperation concerning terrorist offences: alignment with Union rules on the protection of personal data

2021/0399(COD) - 11/10/2023 - Final act

PURPOSE: to amend Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data.

LEGISLATIVE ACT: Directive (EU) 2023/2123 of the European Parliament and of the Council amending Council Decision 2005/671/JHA as regards its alignment with Union rules on the protection of personal data.

CONTENT: Directive (EU) 2016/680 of the European Parliament and of the Council provides for 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.

Council Decision 2005/671/JHA lays down specific rules on the exchange of information and cooperation concerning terrorist offences. To ensure a consistent approach to the protection of personal data in the Union, that Decision should be amended in order to align it with Directive (EU) 2016/680.

The application of Decision 2005/671/JHA, which involves the processing, including the exchange and subsequent use, of information concerning terrorist offences, involves the processing of personal data.

In the interests of consistency and of the effective protection of such personal data, it is important that the processing of personal data carried out under Decision 2005/671/JHA comply with Union law, including with the rules set out in Directive (EU) 2016/680, and be in accordance with the security requirements, safeguards and data protection guarantees set out in other instruments of Union law that contain provisions on data protection, including Regulations (EU) 2016/794 on the European Union Agency for Law Enforcement Cooperation (Europol) and (EU) 2018/1725 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, as well as national law.

As regards the provision of information concerning terrorist offences to Europol and the Member States, the amending directive provides that each Member State will ensure that personal data are only processed for the purposes of the prevention, investigation, detection and prosecution of terrorist offences and other criminal offences in respect of which Europol is competent, as listed in Annex I to Regulation (EU) 2016/794.

ENTRY INTO FORCE: 31.10.2023.

TRANSPOSITION: no later than 1.11.2025.