



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 July 2013**

**12384/13**

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**Interinstitutional File:  
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**LIMITE**

**DATAPROTECT 104  
JAI 637  
MI 650  
DRS 137  
DAPIX 98  
FREMP 107  
STAT 25  
COMIX 449  
CODEC 1769**

**NOTE**

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from: Presidency

to: Working Party on Information Exchange and Data Protection (DAPIX)

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No. Cion prop.: 5853/12 DATAPROTECT 9 JAI 44 MI 58 DRS 9 DAPIX 12 FREMP 7  
COMIX 61 CODEC 219

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Subject: Proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)  
- Application of General Data Protection Regulation for historical, statistical and scientific purposes

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Delegations will find attached new horizontal proposals for historical, statistical and scientific purposes.

## **New recital 125a**

Processing of personal data for historical purposes should not be considered incompatible with the purpose for which the data are initially collected, where the processing in archives, subject to appropriate safeguards, is carried out by public authorities or public bodies pursuant to Union or Member State law. Such public authorities or public bodies that hold records of public interest should be services which, pursuant to Union or Member State law, have as their main mission a legal obligation to acquire, preserve, appraise, arrange, describe, communicate, promote, disseminate and provide access to records of enduring value for general interest.

Union or Member State law should determine archival content, control of access and appropriate safeguards, such as restricted access in cases where such access would or might affect the rights and freedoms of natural persons.

### *Article 83a*

#### *Processing of personal data for historical purposes*

1. Processing of personal data for historical purposes in archives carried out by public authorities or public bodies pursuant to Union or Member State law, shall not be considered incompatible with the purpose for which the data are initially collected, provided that the controller provides appropriate safeguards for the rights and freedoms of data subjects, in particular to ensure that the data are not processed for any other purposes or used in support of measures or decisions regarding any particular individual, and specifications on the conditions for access to the data.
2. The controller shall ensure that personal data which are processed for the purposes referred to in paragraph 1 may be made accessible only to recipients after having demonstrated that the data will be used only for historical purposes.

3. Article 14a shall not apply where and insofar as, for processing for historical purposes, the provision of such information proves impossible or would involve a disproportionate effort or if recording or disclosure is expressly laid down by Union law or Member State law. In these cases, the controller shall provide for appropriate safeguards.
  
4. Articles 15, 17, 17a, and 18 shall not apply when personal data are kept for a period which does not exceed the period necessary for the sole purpose of processing for historical purposes, provided that the controller provides appropriate safeguards, taking into account the risks for the rights and freedoms of data subjects, in particular to ensure that the data are not used for taking measures or decisions regarding particular individual.

*Article 83b*

*Processing of personal data for statistical purposes*

1. Processing of personal data for statistical purposes shall not be considered incompatible with the purpose for which the data are initially collected, provided that the controller provides appropriate safeguards for the rights and freedoms of data subjects, in particular to ensure that the data are not processed for any other purposes or used in support of measures or decisions regarding any particular individual or by the use of pseudonymous data.

*[Comment:*

- ***replaces wording in Art. 5(1)(b) of 11013/13 (to be deleted)***
- *reflects Art. 6(1)(b) of Directive 95/46/EC;*
- *reflects Art. 4(1) (b) of Regulation (EC) No 45/2001]*

2. Article 14a shall not apply where and insofar as, for processing for statistical purposes, the provision of such information proves impossible or would involve a disproportionate effort or if recording or disclosure is expressly laid down by Union law or Member State law. In these cases, the controller shall provide for appropriate safeguards.

*[Comment:*

- ***replaces wording in Art. 14a(4)(b) of 11013/13 (to be deleted);***
- *reflected in recital 50 of 11013/13;*
- *reflects Article 11(2) of Directive 95/46/EC;*
- *reflects Art. 12(2) of Regulation (EC) No 45/2001]*

3. Articles 15, 17, 17a, and 18 shall not apply when personal data are kept for a period which does not exceed the period necessary for the sole purpose of compiling statistics, provided that that the controller provides appropriate safeguards, taking into account the risks for the rights and freedoms of data subjects, in particular to ensure that the data are not used for taking measures or decisions regarding particular individuals.

*[Comment:*

- ***replaces wording in Art. 15(2), 16(2), 17(3)(d), 17a(5)(a), 18(4) of 11013/13 (to be deleted)***
- *reflects Art. 13(2) of Directive 95/46/EC) which mentions access only;*
- *reflects Art. 20(2) (e) of Regulation (EC) No 45/2001]*

**Recital 126a (new):**

The processing of personal data for statistical purposes should not be considered incompatible with the purposes for which the data are initially collected provided that the controller provides appropriate safeguards; these safeguards must in particular rule out the use of the data in support of measures or decisions regarding any particular individual. Restrictions on the rights of information, access, erasure, restriction or on the right to data portability should apply only under specific conditions. In these cases, the controller should provide for appropriate safeguards for the rights and freedoms of the data subject.

*[Comment: reflects recitals 29, 34 of Directive 95/46/EC]*

The confidential information which the Union and national statistical authorities collect for the production of statistics should be protected. European statistics should be developed, produced and disseminated in conformity with the statistical principles as set out in Article 338(2) of the Treaty of the Functioning of the European Union. Union law or national law should, within the limits of this Regulation, determine specifications for the processing of personal data for statistical purposes and for guaranteeing statistical confidentiality. Therefore this Regulation should not preclude the application of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164–173), Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8), and Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council of 22 October 2008 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities (OJ L 304, 14.11.2008, p. 70–74).

*[Comment: reflects recitals 33, 34, 35 of Regulation (EC) No 45/2001]*

*Other statistical recitals in 11013/13: 23, 40, 42, 50, 53]*

- **Article 9(2)(i) in 11013/13 (to be deleted)**

- **corresponding wording in recital 42 (to be deleted)**

*[Comment:*

*- no corresponding provision in Directive 95/46/EC]*

- **Article 19(4) in 11013/13 (to be deleted)**

*[Comment:*

*- no corresponding provision in Directive 95/46/EC]*

*[Comment: reflects recitals 29, 34 of Directive 95/46/EC]*

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Other statistical recitals in 11013/13: **23, 40, 42, 50, 53**

- **Article 9(2)(i) in 11013/13** *(to be deleted)*

- **corresponding wording in recital 42** *(to be deleted)*

*[Comment:*

*- no corresponding provision in Directive 95/46/EC]*

- **Article 19(4) in 11013/13** *(to be deleted)*

*[Comment:*

*- no corresponding provision in Directive 95/46/EC]*

*Article 83c*  
*Processing for scientific purposes*

1. Within the limits of this Regulation, personal data may be processed for scientific purposes only if:
  - (a) these purposes cannot be otherwise fulfilled by processing data which does not permit or no longer permits the identification of the data subject;
  - (b) data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information, as long as these purposes can be fulfilled in this manner.
2. Personal data processed for scientific purposes may be published or otherwise publicly disclosed by the controller only if the publication of personal data is necessary to present scientific findings or to facilitate scientific purposes insofar as the interests or the rights or freedoms of the data subject do not override these interests and:
  - (a) the data subject has given explicit consent; or
  - (b) the data were made public by the data subject.
3. Processing of personal data for scientific purposes shall not be considered incompatible with the purpose for which the data are initially collected, provided that the controller implements appropriate safeguards for the rights and freedoms of data subjects, in particular to ensure that the data are not processed for any other purposes or used in support of measures or decisions regarding any particular individual or by the use of pseudonymous data.
4. Article 14a shall not apply where and insofar as, for processing for scientific purposes, the provision of such information proves impossible or would involve a disproportionate effort or if recording or disclosure is expressly laid down by Union law or Member State law. In these cases, the controller referred to in paragraph 1 shall provide for appropriate safeguards.
5. Articles 15, 17, 17a, and 18 shall not apply when personal data are kept for a period which does not exceed the period necessary for solely for scientific purposes, provided that that the controller implements appropriate safeguards, taking into account the risks for the rights and freedoms of data subjects, in particular to ensure that the data are not used for taking measures or decisions regarding particular individuals.