European Commission

General Data Protection Regulation

Obligations

Support in working out the codes of conduct

(Alias Commission)

Chapter IV, Section 4, Article 40, Paragraph 1

The Member States, the supervisory authorities, the Board and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation, taking account of the specific features of the various processing sectors and the specific needs of micro, small and medium-sized enterprises.

Publication of the generally valid and approved codes of conduct

(Alias Commission)

Chapter IV, Section 4, Article 40, Paragraph 10

The Commission shall ensure appropriate publicity for the approved codes which have been decided as having general validity in accordance with paragraph 9.

Supporting the certification mechanisms process

(Alias Commission)

Chapter IV, Section 4, Article 42, Paragraph 1

The Member States, the supervisory authorities, the Board and the Commission shall encourage, in particular at Union level, the establishment of data protection certification mechanisms and of data protection seals and marks, for the purpose of demonstrating compliance with this Regulation of processing operations by controllers and processors. The specific needs of micro, small and medium-sized enterprises shall be taken into account.

Assessment of the adequacy in context of the data protection level

(Alias Commission)

Chapter V, Article 45, Paragraph 2

When assessing the adequacy of the level of protection, the Commission shall, in particular, take account of the following elements:
(a) the rule of law, respect for human rights and fundamental freedoms, relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law and the access of public authorities to personal data, as well as the implementation of such legislation, data protection rules, professional rules and security measures, including rules for the onward transfer of personal data to another third country or international organisation which are complied with in that country or international organisation, case-law, as well as effective and enforceable data subject rights and effective administrative and judicial redress for the data subjects whose personal data are being transferred;
(b) the existence and effective functioning of one or more independent supervisory authorities in the third country or to which an international organisation is subject, with responsibility for ensuring and enforcing compliance with the data protection rules, including adequate enforcement powers, for assisting and advising the data subjects in exercising their rights and for cooperation with the supervisory authorities of the Member States; and
(c) the international commitments the third country or international organisation concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems, in particular in relation to the protection of personal data.

Derogation, novelization or detention of the Commission decision, in relation to the Article 45, paragraph 3

(Alias Commission)

Chapter V, Article 45, Paragraph 5

The Commission shall, where available information reveals, in particular following the review referred to in paragraph 3 of this Article, that a third country, a territory or one or more specified sectors within a third country, or an international organisation no longer ensures an adequate level of protection within the meaning of paragraph 2 of this Article, to the extent necessary, repeal, amend or suspend the decision referred to in paragraph 3 of this Article by means of implementing acts without retro-active effect. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).
On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 93(3).

Consultations with the third country or an international organization

(Alias Commission)

Chapter V, Article 45, Paragraph 6

The Commission shall enter into consultations with the third country or international organisation with a view to remedying the situation giving rise to the decision made pursuant to paragraph 5.

Information about the adequate level of the protection from the third country or an international organisation

(Alias Commission)

Chapter V, Article 45, Paragraph 8

The Commission shall publish in the Official Journal of the European Union and on its website a list of the third countries, territories and specified sectors within a third country and international organisations for which it has decided that an adequate level of protection is or is no longer ensured.

Activity of the Commission and the supervisory authorities in context of the international support

(Alias Commission)

Chapter V, Article 50

In relation to third countries and international organisations, the Commission and supervisory authorities shall take appropriate steps to:
(a) develop international cooperation mechanisms to facilitate the effective enforcement of legislation for the protection of personal data;
(b) provide international mutual assistance in the enforcement of legislation for the protection of personal data, including through notification, complaint referral, investigative assistance and information exchange, subject to appropriate safeguards for the protection of personal data and other fundamental rights and freedoms;
(c) engage relevant stakeholders in discussion and activities aimed at furthering international cooperation in the enforcement of legislation for the protection of personal data;
(d) promote the exchange and documentation of personal data protection legislation and practice, including on jurisdictional conflicts with third countries.

Consistency mechanism

(Alias Commission)

Chapter VII, Section 2, Article 63

In order to contribute to the consistent application of this Regulation throughout the Union, the supervisory authorities shall cooperate with each other and, where relevant, with the Commission, through the consistency mechanism as set out in this Section.

Cooperation between the supervisory authorities, Commission and Board

(Alias Commission)

Chapter VII, Section 2, Article 64, Paragraph 4

Supervisory authorities and the Commission shall, without undue delay, communicate by electronic means to the Board, using a standardised format any relevant information, including as the case may be a summary of the facts, the draft decision, the grounds which make the enactment of such measure necessary, and the views of other supervisory authorities concerned.

Notification of an adoption of the delegated

(Alias Commission)

Chapter X, Article 92, Paragraph 4

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Submitting a report on the evaluation and review of this Regulation to the European Parliament and to the Council

(Alias Commission)

Chapter XI, Article 97, Paragraph 1

By 25 May 2020 and every four years thereafter, the Commission shall submit a report on the evaluation and review of this Regulation to the European Parliament and to the Council. The reports shall be made public.

Obligations of the Commission in the context of the evaluation and reviewing of this regulation

(Alias Commission)

Chapter XI, Article 97, Paragraph 2

In the context of the evaluations and reviews referred to in paragraph 1, the Commission shall examine, in particular, the application and functioning of:
(a) Chapter V on the transfer of personal data to third countries or international organisations with particular regard to decisions adopted pursuant to Article 45(3) of this Regulation and decisions adopted on the basis of Article 25(6) of Directive 95/46/EC;
(b) Chapter VII on cooperation and consistency.

Procedure of the Commission during the evaluation and reviewing process

(Alias Commission)

Chapter XI, Article 97, Paragraph 4

In carrying out the evaluations and reviews referred to in paragraphs 1 and 2, the Commission shall take into account the positions and findings of the European Parliament, of the Council, and of other relevant bodies or sources.

Submission of the appropriate amendment proposals

(Alias Commission)

Chapter XI, Article 97, Paragraph 5

The Commission shall, if necessary, submit appropriate proposals to amend this Regulation, in particular taking into account of developments in information technology and in the light of the state of progress in the information society.

Submitting the amendment legal acts

(Alias Commission)

Chapter XI, Article 98

The Commission shall, if appropriate, submit legislative proposals with a view to amending other Union legal acts on the protection of personal data, in order to ensure uniform and consistent protection of natural persons with regard to processing. This shall in particular concern the rules relating to the protection of natural persons with regard to processing by Union institutions, bodies, offices and agencies and on the free movement of such data.

Rights

The right of the Commission to act in terms of the Article 92

(Alias Commission)

Chapter III, Section 1, Article 12, Paragraph 8

The Commission shall be empowered to adopt delegated acts in accordance with Article 92 for the purpose of determining the information to be presented by the icons and the procedures for providing standardised icons.

Setting the standard contract clauses settled by the Commission

(Alias Commission)

Chapter IV, Section 1, Article 28, Paragraph 7

The Commission may lay down standard contractual clauses for the matters referred to in paragraph 3 and 4 of this Article and in accordance with the examination procedure referred to in Article 93(2).

Determination of the general validity of the approved code of conduct

(Alias Commission)

Chapter IV, Section 4, Article 40, Paragraph 9

The Commission may, by way of implementing acts, decide that the approved code of conduct, amendment or extension submitted to it pursuant to paragraph 8 of this Article have general validity within the Union. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 93(2).

Determination of the certification requirements

(Alias Commission)

Chapter IV, Section 4, Article 43, Paragraph 8

The Commission shall be empowered to adopt delegated acts in accordance with Article 92 for the purpose of specifying the requirements to be taken into account for the data protection certification mechanisms referred to in Article 42(1).

Technical specifications for the certification mechanisms, seals and marks

(Alias Commission)

Chapter IV, Section 4, Article 43, Paragraph 9

The Commission may adopt implementing acts laying down technical standards for certification mechanisms and data protection seals and marks, and mechanisms to promote and recognise those certification mechanisms, seals and marks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

Decision in context of the adequate level of personal data protection

(Alias Commission)

Chapter V, Article 45, Paragraph 3

The Commission, after assessing the adequacy of the level of protection, may decide, by means of implementing act, that a third country, a territory or one or more specified sectors within a third country, or an international organisation ensures an adequate level of protection within the meaning of paragraph 2 of this Article. The implementing act shall provide for a mechanism for a periodic review, at least every four years, which shall take into account all relevant developments in the third country or international organisation. The implementing act shall specify its territorial and sectoral application and, where applicable, identify the supervisory authority or

authorities referred to in point (b) of paragraph 2 of this Article. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 93(2).

Monitoring activity of the Commission

(Alias Commission)

Chapter V, Article 45, Paragraph 4

The Commission shall, on an ongoing basis, monitor developments in third countries and international organisations that could affect the functioning of decisions adopted pursuant to paragraph 3 of this Article and decisions adopted on the basis of Article 25(6) of Directive 95/46/EC.

Exchange of information between the subjects

(Alias Commission)

Chapter V, Article 47, Paragraph 3

The Commission may specify the format and procedures for the exchange of information between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 93(2).

A specification of the forms and ways of cooperation between the supervisory authorities

(Alias Commission)

Chapter VII, Section 1, Article 61, Paragraph 9

The Commission may, by means of implementing acts, specify the format and procedures for mutual assistance referred to in this Article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the Board, in particular the standardised format referred to in paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

Examination of an appeal by the Board

(Alias Commission)

Chapter VII, Section 2, Article 64, Paragraph 2

Any supervisory authority, the Chair of the Board or the Commission may request that any matter of general application or producing effects in more than one Member State be examined by the Board with a view to obtaining an opinion, in particular where a competent supervisory authority does not comply with the obligations for mutual assistance in accordance with Article 61 or for joint operations in accordance with Article 62.

Adoption of the provisional measures by the respective supervisory authority

(Alias Commission)

Chapter VII, Section 2, Article 66, Paragraph 1

In exceptional circumstances, where a supervisory authority concerned considers that there is an urgent need to act in order to protect the rights and freedoms of data subjects, it may, by way of derogation from the consistency mechanism referred to in Articles 63, 64 and 65 or the procedure referred to in Article 60, immediately adopt provisional measures intended to produce legal effects on its own territory with a specified period of validity which shall not exceed three months. The supervisory authority shall, without delay, communicate those measures and the reasons for adopting them to the other supervisory authorities concerned, to the Board and to the Commission.

Right of the Commission to adopt the implementing acts of the general scope

(Alias Commission)

Chapter VII, Section 2, Article 67

The Commission may adopt implementing acts of general scope in order to specify the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the Board, in particular the standardised format referred to in Article 64.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

Participation of the Commission during the Board sessions

(Alias Commission)

Chapter VII, Section 3, Article 68, Paragraph 5

The Commission shall have the right to participate in the activities and meetings of the Board without voting right. The Commission shall designate a representative. The Chair of the Board shall communicate to the Commission the activities of the Board.

Determination of the period by the Commission

(Alias Commission)

Chapter VII, Section 3, Article 70, Paragraph 2

Where the Commission requests advice from the Board, it may indicate a time limit, taking into account the urgency of the matter.

Right of the Commission to adopt delegated acts
(Alias Commission)
Chapter X, Article 92, Paragraph 1

The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

Right of the Commission to request information from the Member States and supervisory authorities
(Alias Commission)
Chapter XI, Article 97, Paragraph 3

For the purpose of paragraph 1, the Commission may request information from Member States and supervisory authorities.

Indirect obligations

Participation of the Commission during the Board sessions
(Alias Commission)
Chapter VII, Section 3, Article 68, Paragraph 5

The Commission shall have the right to participate in the activities and meetings of the Board without voting right. The Commission shall designate a representative. The Chair of the Board shall communicate to the Commission the activities of the Board.

Indirect rights

Submitting the code of conduct to the Board
(Alias Commission)
Chapter IV, Section 4, Article 40, Paragraph 8

Where the opinion referred to in paragraph 7 confirms that the draft code, amendment or extension complies with this Regulation, or, in the situation referred to in paragraph 3, provides appropriate safeguards, the Board shall submit its opinion to the Commission.

Notification obligation of the Member State in terms of the Chapter VI
(Alias Commission)
Chapter VI, Section 1, Article 51, Paragraph 4

Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to this Chapter, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

An information obligation of the Chair of the Board
(Alias Commission)
Chapter VII, Section 2, Article 64, Paragraph 5

The Chair of the Board shall, without undue, delay inform by electronic means:
(a) the members of the Board and the Commission of any relevant information which has been communicated to it using a standardised format. The secretariat of the Board shall, where necessary, provide translations of relevant information; and
(b) the supervisory authority referred to, as the case may be, in paragraphs 1 and 2, and the Commission of the opinion and make it public.

A notification responsibility of the Chair of the Board
(Alias Commission)
Chapter VII, Section 2, Article 65, Paragraph 5

The Chair of the Board shall notify, without undue delay, the decision referred to in paragraph 1 to the supervisory authorities concerned. It shall inform the Commission thereof. The decision shall be published on the website of the Board without delay after the supervisory authority has notified the final decision referred to in paragraph 6.

Scope of the Board activities and responsibilities
(Alias Commission)
Chapter VII, Section 3, Article 70, Paragraph 1

The Board shall ensure the consistent application of this Regulation. To that end, the Board shall, on its own initiative or, where relevant, at the request of the Commission, in particular:
(a) monitor and ensure the correct application of this Regulation in the cases provided for in Articles 64 and 65 without prejudice to the tasks of national supervisory authorities;
(b) advise the Commission on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;
(c) advise the Commission on the format and procedures for the exchange of information between controllers, processors and supervisory authorities for binding corporate rules;
(d) issue guidelines, recommendations, and best practices on procedures for erasing links, copies or replications of personal data from publicly available communication services as referred to in Article 17(2);
(e) examine, on its own initiative, on request of one of its members or on request of the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices in order to encourage consistent application of this Regulation;
(f) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for further specifying the criteria and conditions for decisions based on profiling pursuant to Article 22(2);
(g) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for establishing the personal data breaches and determining the undue delay referred to in Article 33(1) and (2) and for the particular circumstances in which a controller or a processor is required to notify the personal data breach;
(h) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph as to the circumstances in which a personal data breach is likely to result in a high risk to the rights and freedoms of the natural persons referred to in Article 34(1).
(i) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for the purpose of further specifying the criteria and requirements for personal data transfers based on binding corporate rules adhered to by controllers and binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned referred to in Article 47;
(j) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for the purpose of further specifying the criteria and requirements for the personal data transfers on the basis of Article 49(1);
(k) draw up guidelines for supervisory authorities concerning the application of measures referred to in Article 58(1), (2) and (3) and the setting of administrative fines pursuant to Article 83;
(l) review the practical application of the guidelines, recommendations and best practices referred to in points (e) and (f);
(m) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for establishing common procedures for reporting by natural persons of infringements of this Regulation pursuant to Article 54(2);
(n) encourage the drawing-up of codes of conduct and the establishment of data protection certification mechanisms and data protection seals and marks pursuant to Articles 40 and 42;
(o) carry out the accreditation of certification bodies and its periodic review pursuant to Article 43 and maintain a public register of accredited bodies pursuant to Article 43(6) and of the accredited controllers or processors established in third countries pursuant to Article 42(7);
(p) specify the requirements referred to in Article 43(3) with a view to the accreditation of certification bodies under Article 42;
(q) provide the Commission with an opinion on the certification requirements referred to in Article 43(8);
(r) provide the Commission with an opinion on the icons referred to in Article 12(7);
(s) rovide the Commission with an opinion for the assessment of the adequacy of the level of protection in a third country or international organisation, including for the assessment whether a third country, a territory or one or more specified sectors within that third country, or an international organisation no longer ensures an adequate level of protection. To that end, the Commission shall provide the Board with all necessary documentation, including correspondence with the government of the third country, with regard to that third country, territory or specified sector, or with the international organisation.
(t) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 64(1), on matters submitted pursuant to Article 64(2) and to issue binding decisions pursuant to Article 65, including in cases referred to in Article 66;
(u) promote the cooperation and the effective bilateral and multilateral exchange of information and best practices between the supervisory authorities;
(v) promote common training programmes and facilitate personnel exchanges between the supervisory authorities and, where appropriate, with the supervisory authorities of third countries or with international organisations;
(w) promote the exchange of knowledge and documentation on data protection legislation and practice with data protection supervisory authorities worldwide.
(x) issue opinions on codes of conduct drawn up at Union level pursuant to Article 40(9); and
(y) maintain a publicly accessible electronic register of decisions taken by supervisory authorities and courts on issues handled in the consistency mechanism.

Publication of the consultations results, opinions and best practices, that are made by the Board

(Alias Commission) (As a part of Committee)

Chapter VII, Section 3, Article 70, Paragraph 3

The Board shall forward its opinions, guidelines, recommendations, and best practices to the Commission and to the committee referred to in Article 93 and make them public.

An annual report of the Board in context of the protection of natural persons during the personal data processing activities in the Union

(Alias Commission)

Chapter VII, Section 3, Article 71, Paragraph 1

The Board shall draw up an annual report regarding the protection of natural persons with regard to processing in the Union and, where relevant, in third countries and international organisations. The report shall be made public and be transmitted to the European Parliament, to the Council and to the Commission.

A notification obligation of the Member State based on the Article 84, paragraph 1

(Alias Commission)

Chapter VIII, Article 84, Paragraph 2

Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

Notification obligation of the Member State based on the Article 85, paragraph 2

(Alias Commission)

Chapter IX, Article 85, Paragraph 3

Each Member State shall notify to the Commission the provisions of its law which it has adopted pursuant to paragraph 2 and, without delay, any subsequent amendment law or amendment affecting them.

Notification obligation based on the Article 88, paragraph 1

(Alias Commission)

Chapter IX, Article 88, Paragraph 3

Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

Notification obligation of the Member State in context of the Article 90, paragraph 1

(Alias Commission)

Chapter IX, Article 90, Paragraph 2

Each Member State shall notify to the Commission the rules adopted pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

Definitions

Processing of personal data by the Union institutions, bodies, offices and agencies

(In role European Union institutions, bodies, offices and agencies)

Chapter I, Article 2, Paragraph 3

For the processing of personal data by the Union institutions, bodies, offices and agencies, Regulation (EC) No 45/2001 applies. Regulation (EC) No 45/2001 and other Union legal acts applicable to such processing of personal data shall be adapted to the principles and rules of this Regulation in accordance with Article 98.

General conditions for transferring the personal data

(Alias Commission)

Chapter V, Article 45, Paragraph 1

A transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that third country, or the international organisation in question ensures an adequate level of protection. Such a transfer shall not require any specific authorisation.

Validity of the decisions based on the Article 25, paragraph 6 of the Directive 95/46/ES

(Alias Commission)

Chapter V, Article 45, Paragraph 9

Decisions adopted by the Commission on the basis of Article 25(6) of Directive 95/46/EC shall remain in force until amended, replaced or repealed by a Commission Decision adopted in accordance with paragraph 3 or 5 of this Article.

Possibilities of setting the appropriate safeguards up

(Alias Commission)

Chapter V, Article 46, Paragraph 2

The appropriate safeguards referred to in paragraph 1 may be provided for, without requiring any specific authorisation from a supervisory authority, by:
(a) a legally binding and enforceable instrument between public authorities or bodies;
(b) binding corporate rules in accordance with Article 47;

(c) standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2);
(d) standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2);
(e) an approved code of conduct pursuant to Article 40 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or
(f) an approved certification mechanism pursuant to Article 42 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights..

Validity of the permissions, that were issued under the Article 26, paragraph 2 of the Directive 95/46/ES

(Alias Commission)

Chapter V, Article 46, Paragraph 5

Authorisations by a Member State or supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid until amended, replaced or repealed, if necessary, by that supervisory authority. Decisions adopted by the Commission on the basis of Article 26(4) of Directive 95/46/EC shall remain in force until amended, replaced or repealed, if necessary, by a Commission Decision adopted in accordance with paragraph 2 of this Article.

Period for adoption the delegate acts

(Alias Commission)

Chapter X, Article 92, Paragraph 2

The delegation of power referred to in Article 12(8) and Article 43(8) shall be conferred on the Commission for an indeterminate period of time from 24 May 2016.

The delegated act and it´s entering into the force

(Alias Commission)

Chapter X, Article 92, Paragraph 5

A delegated act adopted pursuant to Article 12(8) and Article 43(8) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Cooperation between the Commission and Committee

(Alias Commission) (As a part of Committee)

Chapter X, Article 93, Paragraph 1

The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.