Netherlands

General Data Protection Regulation

Obligations

Consultations during the legislative process

(In role Member state)

Chapter IV, Section 3, Article 36, Paragraph 4

Member States shall consult the supervisory authority during the preparation of a proposal for a legislative measure to be adopted by a national parliament, or of a regulatory measure based on such a legislative measure, which relates to processing.

Support in working out the codes of conduct

(In role Member state)

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.

Supporting the certification mechanisms process

(In role Member state)

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.

Issuing the certification

(In role Member state)

Chapter IV, Section 4, Article 43, Paragraph 1

Without prejudice to the tasks and powers of the competent supervisory authority under Articles 57 and 58, certification bodies which have an appropriate level of expertise in relation to data protection shall, after informing the supervisory authority in order to allow it to exercise its powers pursuant to point (h) of Article 58(2) where necessary, issue and renew certification. Member States shall ensure that those certification bodies are accredited by one or both of the following:
(a) the supervisory authority which is competent pursuant to Article 55 or 56;
(b) the national accreditation body named in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council (20) in accordance with EN-ISO/IEC 17065/2012 and with the additional requirements established by the supervisory authority which is competent pursuant to Article 55 or 56.

Public interest in context of the personal data transfer

(In role Member state)

Chapter V, Article 49, Paragraph 4

The public interest referred to in point (d) of the first subparagraph of paragraph 1 shall be recognised in Union law or in the law of the Member State to which the controller is subject.

Establishing the supervisory authority

(In role Member state)

Chapter VI, Section 1, Article 51, Paragraph 1

Each Member State shall provide for one or more independent public authorities to be responsible for monitoring the application of this Regulation, in order to protect the fundamental rights and freedoms of natural persons in relation to processing and to facilitate the free flow of personal data within the Union ('supervisory authority').

Designating the supervisory authority in order to representation activities at the Board

(In role Member state)

Chapter VI, Section 1, Article 51, Paragraph 3

Where more than one supervisory authority is established in a Member State, that Member State shall designate the supervisory authority which is to represent those authorities in the Board and shall set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism referred to in Article 63.

Notification obligation of the Member State in terms of the Chapter VI

(In role Member state)

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.

Obligation to provide the working conditions for the supervisory authority activities

(In role Member state)

Chapter VI, Section 1, Article 52, Paragraph 4

Each Member State shall ensure that each supervisory authority is provided with the human, technical and financial resources, premises and infrastructure necessary for the effective performance of its tasks and exercise of its powers, including those to be carried out in the context of mutual assistance, cooperation and participation in the Board.

Conditions for the supervisory authority staff selection

(In role Member state)

Chapter VI, Section 1, Article 52, Paragraph 5

Each Member State shall ensure that each supervisory authority chooses and has its own staff which shall be subject to the exclusive direction of the member or members of the supervisory authority concerned.

Financial control of the supervisory authority

(In role Member state)

Chapter VI, Section 1, Article 52, Paragraph 6

Each Member State shall ensure that each supervisory authority is subject to financial control which does not affect its independence and that it has separate, public annual budgets, which may be part of the overall state or national budget.

Appointing the members of the supervisory authority

(In role Member state)

Chapter VI, Section 1, Article 53, Paragraph 1

Member States shall provide for each member of their supervisory authorities to be appointed by means of a transparent procedure by:
—their parliament;
—their government;
—their head of State; or
—an independent body entrusted with the appointment under Member State law.

Determination rules for the supervisory authority members

(In role Member state)

Chapter VI, Section 1, Article 54, Paragraph 1

Each Member State shall provide by law for all of the following:
(a) the establishment of each supervisory authority;
(b) the qualifications and eligibility conditions required to be appointed as member of each supervisory authority;
(c) the rules and procedures for the appointment of the member or members of each supervisory authority;
(d) the duration of the term of the member or members of each supervisory authority of no less than four years, except for the first appointment after 24 May 2016, part of which may take place for a shorter period where that is necessary to protect the independence of the supervisory authority by means of a staggered appointment procedure;
(e) whether and, if so, for how many terms the member or members of each supervisory authority is eligible for reappointment;
(f) the conditions governing the obligations of the member or members and staff of each supervisory authority, prohibitions on actions, occupations and benefits incompatible therewith during and after the term of office and rules governing the cessation of employment.

A responsibility for the activities of the dispatched supervisory authority personal

(In role Member state)

Chapter VII, Section 1, Article 62, Paragraph 4

Where, in accordance with paragraph 1, staff of a seconding supervisory authority operate in another Member State, the Member State of the host supervisory authority shall assume responsibility for their actions, including liability, for any damage caused by them during their operations, in accordance with the law of the Member State in whose territory they are operating.

Reimbursement of the damage, that is caused by the seconding supervisory authority personal

(In role Member State in whose territory the damage was caused) (In role Member State of the seconding supervisory authority whose staff has caused damage)

Chapter VII, Section 1, Article 62, Paragraph 5

The Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own staff. The Member State of the seconding supervisory authority whose staff has caused damage to any person in the

territory of another Member State shall reimburse that other Member State in full any sums it has paid to the persons entitled on their behalf.

The prohibition of requesting the reimbursement in terms of the Article 62, paragraph 4 of the regulation

(In role Member state)

Chapter VII, Section 1, Article 62, Paragraph 6

Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 5, each Member State shall refrain, in the case provided for in paragraph 1, from requesting reimbursement from another Member State in relation to damage referred to in paragraph 4.

Designation of the joint representative of the supervisory authorities

(In role Member state)

Chapter VII, Section 3, Article 68, Paragraph 4

Where in a Member State more than one supervisory authority is responsible for monitoring the application of the provisions pursuant to this Regulation, a joint representative shall be appointed in accordance with that Member State's law.

Special provisions concerning the other sanction in case of non-compliance with the regulation

(In role Member state)

Chapter VIII, Article 84, Paragraph 1

Member States shall lay down the rules on other penalties applicable to infringements of this Regulation in particular for infringements which are not subject to administrative fines pursuant to Article 83, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

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

(In role Member state)

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.

Harmonization of the right to the personal data protection with the legal system of the Member State

(In role Member state)

Chapter IX, Article 85, Paragraph 1

Member States shall by law reconcile the right to the protection of personal data pursuant to this Regulation with the right to freedom of expression and information, including processing for journalistic purposes and the purposes of academic, artistic or literary expression.

Personal data processing, carried out for the journalistic purposes or for the purpose of an academic, artistic or literary expression

(In role Member state)

Chapter IX, Article 85, Paragraph 2

For processing carried out for journalistic purposes or the purpose of academic artistic or literary expression, Member States shall provide for exemptions or derogations from Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries or international organisations), Chapter VI (independent supervisory authorities), Chapter VII (cooperation and consistency) and Chapter IX (specific data processing situations) if they are necessary to reconcile the right to the protection of personal data with the freedom of expression and information.

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

(In role Member state)

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

(In role Member state)

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

(In role Member state)

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.

Rights

Implementation of the requirements for the processing in terms of the paragraph 1, points c) and e) of the regulation

(In role Member state)

Chapter II, Article 6, Paragraph 2

Member States may maintain or introduce more specific provisions to adapt the application of the rules of this Regulation with regard to processing for compliance with points (c) and (e) of paragraph 1 by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing including for other specific processing situations as provided for in Chapter IX.

Requirements for the information society services in context of a child

(In role Member state)

Chapter II, Article 8, Paragraph 1

Where point (a) of Article 6(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.
Member States may provide by law for a lower age for those purposes provided that such lower age is not below 13 years.

Further conditions regarding the processing of genetic data, biometric data or data concerning health

(In role Member state)

Chapter II, Article 9, Paragraph 4

Member States may maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health.

Restrictions of the scope of rights and obligations settled in the Articles 12 – 22, 34 and 5

(In role Member state)

Chapter III, Section 5, Article 23, Paragraph 1

Union or Member State law to which the data controller or processor is subject may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 12 to 22 and Article 34, as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:
(a) national security;
(b) defence;
(c) public security;
(d) the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
(e) other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation a matters, public health and social security;
(f) the protection of judicial independence and judicial proceedings;
(g) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
(h) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (e) and (g);
(i) the protection of the data subject or the rights and freedoms of others;
(j) the enforcement of civil law claims.

The limitation of the special personal data category transfer

(In role Member state)

Chapter V, Article 49, Paragraph 5

In the absence of an adequacy decision, Union or Member State law may, for important reasons of public interest, expressly set limits to the transfer of specific categories of personal data to a third country or an international organisation. Member States shall notify such provisions to the Commission.

Implementation of the additional rights of the supervisory authority

(In role Member state)

Chapter VI, Section 2, Article 58, Paragraph 6

Each Member State may provide by law that its supervisory authority shall have additional powers to those referred to in paragraphs 1, 2 and 3. The exercise of those powers shall not impair the effective operation of Chapter VII.

Extension of the rights and mandates for the not-for-profit body, organisation or association in the Member States

(In role Member state)

Chapter VIII, Article 80, Paragraph 2

Member States may provide that anybody, organisation or association referred to in paragraph 1 of this Article, independently of a data subject's mandate, has the right to lodge, in that Member State, a complaint with the supervisory authority which is competent pursuant to Article 77 and to exercise the rights referred to in Articles 78 and 79 if it considers that the rights of a data subject under this Regulation have been infringed as a result of the processing.

Processing of the national identification number

(In role Member state)

Chapter IX, Article 87

Member States may further determine the specific conditions for the processing of a national identification number or any other identifier of general application. In that case the national identification number or any other identifier of general application shall be used only under appropriate safeguards for the rights and freedoms of the data subject pursuant to this Regulation.

Principles of personal data processing for the purpose of the employment

(In role Member state)

Chapter IX, Article 88, Paragraph 1

Member States may, by law or by collective agreements, provide for more specific rules to ensure the protection of the rights and freedoms in respect of the processing of employees' personal data in the employment context, in particular for the purposes of the recruitment, the performance of the contract of employment, including discharge of obligations laid down by law or by collective agreements, management, planning and organisation of work, equality and diversity in the workplace, health and safety at work, protection of employer's or customer's property and for the purposes of the exercise and enjoyment, on an individual or collective basis, of rights and benefits related to employment, and for the purpose of the termination of the employment relationship.

Exemption in personal data processing for scientific, historical or statistical purposes or research

(In role Member state)

Chapter IX, Article 89, Paragraph 2

Where personal data are processed for scientific or historical research purposes or statistical purposes, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Exemption in personal data processing for an archiving purposes

(In role Member state)

Chapter IX, Article 89, Paragraph 3

Where personal data are processed for archiving purposes in the public interest, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18, 19, 20 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Right of the supervisory authorities in terms of the Article 58, paragraph 1, points e) and f)

(In role Member state)

Chapter IX, Article 90, Paragraph 1

Member States may adopt specific rules to set out the powers of the supervisory authorities laid down in points (e) and (f) of Article 58(1) in relation to controllers or processors that are subject, under Union or Member State law or rules established by national competent bodies, to an obligation of professional secrecy or other equivalent obligations of secrecy where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy. Those rules shall apply only with regard to personal data which the controller or processor has received as a result of or has obtained in an activity covered by that obligation of secrecy.

Indirect obligations

Right of the supervisory authority to bring infringements of this Regulation to attention of the judicial authorities

(In role Member state)

Chapter VI, Section 2, Article 58, Paragraph 5

Each Member State shall provide by law that its supervisory authority shall have the power to bring infringements of this Regulation to the attention of the judicial authorities and where appropriate, to commence or engage otherwise in legal proceedings, in order to enforce the provisions of this Regulation.

Right of the Commission to request information from the Member States and supervisory authorities

(In role Member state)

Chapter XI, Article 97, Paragraph 3

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

Indirect rights

Reimbursement of the damage, that is caused by the seconding supervisory authority personal

(In role Member State in whose territory the damage was caused)

Chapter VII, Section 1, Article 62, Paragraph 5

The Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own staff. The Member State of the seconding supervisory authority whose staff has caused damage to any person in the territory of another Member State shall reimburse that other Member State in full any sums it has paid to the persons entitled on their behalf.

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

(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.

Definitions

Basis for the processing referred to in point (c) and (e) of paragraph 1

(In role Member state)

Chapter II, Article 6, Paragraph 3

The basis for the processing referred to in point (c) and (e) of paragraph 1 shall be laid down by:
(a) Union law; or
(b) Member State law to which the controller is subject.
The purpose of the processing shall be determined in that legal basis or, as regards the processing referred to in point (e) of paragraph 1, shall be necessary for the performance of a carried out in the public interest or in the exercise of official authority vested in the controller. That legal basis may contain specific provisions to adapt the application of rules of this Regulation, inter alia: the general conditions governing the lawfulness of processing by the controller; the types of data which are subject to the processing; the data subjects concerned; the entities to, and the purposes for which, the personal data may be disclosed; the purpose limitation; storage periods; and processing operations and processing procedures, including measures to ensure lawful and fair processing such as those for other specific processing situations as provided for in Chapter IX. The Union or the Member State law shall meet an objective of public interest and be proportionate to the legitimate aim pursued.

Restrictions in terms of the Article 8, paragraph 1

(In role Member state)

Chapter II, Article 8, Paragraph 3

Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.

Exclusions from the prohibition of processing the special categories of personal data

(In role Member state)

Chapter II, Article 9, Paragraph 2

Paragraph 1 shall not apply if one of the following applies:
(a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject;
(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data

subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;
(c) processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;
(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;
(e) processing relates to personal data which are manifestly made public by the data subject;
(f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;
(h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3;
(i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;
(j) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Provisions regarding the processing of special categories of personal data in terms of the Article 9, paragraph 2, point h)

(In role Member state)

Chapter II, Article 9, Paragraph 3

Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies.

Processing of personal data relating to criminal convictions and offences

(In role Member state)

Chapter II, Article 10

Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects. Any comprehensive register of criminal convictions shall be kept only under the control of official authority.

Exemptions from application the obligation of the controller to provide information in terms of the Article 14, paragraphs 1 – 4

(In role Member state)

Chapter III, Article 14, Section 2, Paragraph 5

Paragraphs 1 to 4 shall not apply where and insofar as:
(a) the data subject already has the information;
(b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to the conditions and safeguards referred to in Article 89(1) or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available;
(c) obtaining or disclosure is expressly laid down by Union or Member State law to which the controller is subject and which provides appropriate measures to protect the data subject's legitimate interests; or
(d) where the personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Member State law, including a statutory obligation of secrecy.

Processing the personal data after the right to restriction of processing has been applied

(In role Member state)

Chapter III, Section 3, Article 18, Paragraph 2

Where processing has been restricted under paragraph 1, such personal data shall, with the exception of storage, only be processed with the data subject's consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another

natural or legal person or for reasons of important public interest of the Union or of a Member State.

Minimum scope of the individual provisions in terms of the Article 23, paragraph 1 of the regulation

(In role Member state)

Chapter III, Section 5, Article 23, Paragraph 2

In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, as to:
(a) the purposes of the processing or categories of processing;
(b) the categories of personal data;
(c) the scope of the restrictions introduced;
(d) the safeguards to prevent abuse or unlawful access or transfer;
(e) the specification of the controller or categories of controllers;
(f) the storage periods and the applicable safeguards taking into account the nature, scope and purposes of the processing or categories of processing;
(g) the risks to the rights and freedoms of data subjects; and
(h) the right of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.

Minimal scope of the contract essentials between the Controller and Processor

(In role Member state)

Chapter IV, Section 1, Article 28, Paragraph 3

Processing by a processor shall be governed by a contract or other legal act under Union or Member State law, that is binding on the processor with regard to the controller and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. That contract or other legal act shall stipulate, in particular, that the processor:
a) processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
b) ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
c) takes all measures required pursuant to Article 32;
d) respects the conditions referred to in paragraphs 2 and 4 for engaging another processor;
taking into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;
d) assists the controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 taking into account the nature of processing and the information available to the processor;
f) at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law requires storage of the personal data;
g) makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in this Article and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller.
With regard to point (h) of the first subparagraph, the processor shall immediately inform the controller if, in its opinion, an instruction infringes this Regulation or other Union or Member State data protection provisions.

Situations where the DPIA need not to be done

(In role Member state)

Chapter IV, Section 3, Article 35, Paragraph 10

Where processing pursuant to point (c) or (e) of Article 6(1) has a legal basis in Union law or in the law of the Member State to which the controller is subject, that law regulates the specific processing operation or set of operations in question, and a data protection impact assessment has already been carried out as part of a general impact assessment in the context of the adoption of that legal basis, paragraphs 1 to 7 shall not apply unless Member States deem it to be necessary to carry out such an assessment prior to processing activities.

Supervisory authority consultation relating to social policy and public health policy

(In role Member state)

Chapter IV, Section 3, Article 36, Paragraph 5

Notwithstanding paragraph 1, Member State law may require controllers to consult with, and obtain prior authorisation from, the supervisory authority in relation to processing by a controller for the performance of a task carried out by the controller in the public interest, including processing in relation to social protection and public health.

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

(In role Member state)

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.

Minimal essential content of the binding corporate rules

(In role Member state)

Chapter V, Article 47, Paragraph 2

The binding corporate rules referred to in paragraph 1 shall specify at least:
(a) the structure and contact details of the group of undertakings, or group of enterprises engaged in a joint economic activity and of each of its members;
(b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question;
(c) their legally binding nature, both internally and externally;
(d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the binding corporate rules;
(e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules;
(f) the acceptance by the controller or processor established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member concerned not established in the Union; the controller or the processor shall be exempt from that liability, in whole or in part, only if it proves that that member is not responsible for the event giving rise to the damage;
(g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in addition to Articles 13 and 14;
(h) he tasks of any data protection officer designated in accordance with Article 37 or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the group of undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling;
(i) the complaint procedures;
(j) the mechanisms within the group of undertakings, or group of enterprises engaged in a joint economic activity for ensuring the verification of compliance with the binding corporate rules. Such mechanisms shall include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. Results of such verification should be communicated to the person or entity referred to in point (h) and to the board of the controlling undertaking of Group of undertakings, or of the group of enterprises engaged in a joint economic activity, and should be available upon request to the competent supervisory authority;
(k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority;
(l) the cooperation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, or group of enterprises engaged in a joint economic activity, in particular by making available to the supervisory authority the results of verifications of the measures referred to in point (j);
(m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings, or group of enterprises engaged in a joint economic activity is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules; and
(n) the appropriate data protection training to personnel having permanent or regular access to personal data.

Mutual legal assistance between the requesting third country and the Union or a Member State

(In role Member state)

Chapter V, Article 48

Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a controller or processor to transfer or disclose personal data may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State, without prejudice to other grounds for transfer pursuant to this Chapter.

Conditions for the personal data transfer in case of an appropriate safeguards decision absence

(In role Member state)

Chapter V, Article 49, Paragraph 1

In the absence of an adequacy decision pursuant to Article 45(3), or of appropriate safeguards pursuant to Article 46, including binding corporate rules, a transfer or a set of transfers of personal data to a third country or an international organisation shall take place only on one of the following conditions:
(a) the data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards;
(b) the transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request;
(c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person;
(d) the transfer is necessary for important reasons of public interest;
(e) the transfer is necessary for the establishment, exercise or defence of legal claims;
(f) the transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is

physically or legally incapable of giving consent;
(g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by Union or Member State law for consultation are fulfilled in the particular case.
Where a transfer could not be based on a provision in Article 45 or 46, including the provisions on binding corporate rules, and none of the derogations for a specific situation referred to in the first subparagraph of this paragraph is applicable, a transfer to a third country or an international organisation may take place only if the transfer is not repetitive, concerns only a limited number of data subjects, is necessary for the purposes of compelling legitimate interests pursued by the controller which are not overridden by the interests or rights and freedoms of the data subject, and the controller has assessed all the circumstances surrounding the data transfer and has on the basis of that assessment provided suitable safeguards with regard to the protection of personal data. The controller shall inform the supervisory authority of the transfer. The controller shall, in addition to providing the information referred to in Articles 13 and 14, inform the data subject of the transfer and on the compelling legitimate interests pursued.

Exemption from the Article 56 application

(In role Member state)

Chapter VI, Section 2, Article 55, Paragraph 2

Where processing is carried out by public authorities or private bodies acting on the basis of point (c) or (e) of Article 6(1), the supervisory authority of the Member State concerned shall be competent. In such cases Article 56 does not apply.

The exercise of powers by the supervisory authority

(In role Member state)

Chapter VI, Section 2, Article 58, Paragraph 4

The exercise of the powers conferred on the supervisory authority pursuant to this Article shall be subject to appropriate safeguards, including effective judicial remedy and due process, set out in Union and Member State law in accordance with the Charter.

Structure of the Board

(In role Member state)

Chapter VII, Section 3, Article 68, Paragraph 3

The Board shall be composed of the head of one supervisory authority of each Member State and of the European Data Protection Supervisor, or their respective representatives.

The local competency of the judicial authorities for submitting the proceeding against the controller or processor

(In role Member state)

Chapter VIII, Article 79, Paragraph 2

Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has his or her habitual residence, unless the controller or processor is a public authority of a Member State acting in the exercise of its public powers.

Court proceedings related to the exercising the right to receive compensation

(In role Member state)

Chapter VIII, Article 82, Paragraph 6

Court proceedings for exercising the right to receive compensation shall be brought before the courts competent under the law of the Member State referred to in Article 79(2).

Harmonization of the data protection rules, related to the churches and religious associations

(In role Member state)

Chapter IX, Article 91, Paragraph 1

Where in a Member State, churches and religious associations or communities apply, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of natural persons with regard to processing, such rules may continue to apply, provided that they are brought into line with this Regulation.

Cooperation between the Commission and Committee

(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.

Relationship with previously concluded Agreements

(In role Member state)

Chapter XI, Article 96

International agreements involving the transfer of personal data to third countries or international organisations which were concluded by Member States prior to 24 May 2016, and which comply with Union law as applicable prior to that date, shall remain in force until amended, replaced or revoked.