



17/12/2020

**AMENDMENTS: 68**

**Juan Fernando López Aguilar**

Commission evaluation report on the implementation of the General Data Protection Regulation two years after its application

**Draft motion for a resolution** PE660.347 - 2020/2717(RSP)

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## Amendment 1

**Axel Voss, Roberta Metsola, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

### Draft motion for a resolution

#### Recital B

##### *Draft motion for a resolution*

B. whereas, since the start of application of the GDPR, supervisory authorities have received a massive increase in complaints; whereas this illustrates that data subjects are more aware of their rights and want to protect their personal data in line with the GDPR; ***whereas this also illustrates that large amounts of illegal data processing operations continue to take place;***

##### *Amendment*

B. whereas, since the start of application of the GDPR, supervisory authorities have received a massive increase in complaints; whereas this illustrates that data subjects are more aware of their rights and want to protect their personal data in line with the GDPR;

Or. en

## Amendment 2

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

### Draft motion for a resolution

#### Paragraph 1

##### *Draft motion for a resolution*

1. Welcomes that the GDPR has become a global standard for the protection of personal data and is a factor of convergence in the development of norms; welcomes that the GDPR has placed the EU at the forefront of international discussions about data protection and a number of third countries have aligned their data protection laws with the GDPR;

##### *Amendment*

1. Welcomes that the GDPR has become a global standard for the protection of personal data and is a factor of convergence in the development of norms; welcomes that the GDPR has placed the EU at the forefront of international discussions about data protection and a number of third countries have aligned their data protection laws with the GDPR; ***urges the European Commission as well as Member States to use this momentum to push at UN, OECD, G8, G20 level for the creation of international standards that are shaped on European values and***

*principles; underlines that a dominant European position in this field would help our continent to better defend the rights of our citizens, safeguard our values and principles, promote trustful digital innovation, and to accelerate the economic growth by avoiding fragmentation;*

Or. en

### **Amendment 3**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution Paragraph 2**

##### *Draft motion for a resolution*

2. *Concludes* that, two years after its entry into application, the GDPR has been an overall success *and agrees* with the *European* Commission that it is not necessary at this stage to update or review the legislation;

##### *Amendment*

2. *Takes note of the assessment of the European Commission* that, two years after its entry into application, the GDPR has been an overall success; *points, however, to the problems and shortcomings identified by stakeholders and confirmed by the Commission; disagrees, therefore* with the Commission that it is not necessary at this stage to update or review the legislation *and calls for an urgent, targeted revision aimed at rectifying the identified problems and shortcomings;*

Or. en

### **Amendment 4**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution Paragraph 2 a (new)**

**2 a.** *Highlights that while the GDPR - in some areas - is becoming a competitive enabler for the EU, it has not facilitated the exercise of new individual rights as originally anticipated and thwarts our efforts in the global race for future strategic technologies by unnecessarily restricting businesses in the use of available data;*

Or. en

**Amendment 5**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 3**

*Draft motion for a resolution*

*Amendment*

3. *Acknowledge* that the focus *in the coming years* must continue to be on the improvement of implementation and actions to strengthen the GDPR;

3. *Acknowledges* that the focus, *until the Commission's next evaluation*, must continue to be on the improvement of implementation and actions to strengthen the GDPR; *urges the Commission in the meantime to study the effects of the GDPR on future technologies made in Europe, single out all legislative shortcomings and eventually, present plans for a more comprehensive revision;*

Or. en

**Amendment 6**

**Axel Voss, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 5**

*Draft motion for a resolution*

5. Reminds that since the start of the application of the GDPR, “consent” means any freely, given, specific, informed and unambiguous indication of the data subject’s wishes, ***underlines that this also applies to the e-Privacy Directive***; notes that the implementation of valid consent continues to be compromised by the use of dark patterns, ***tracking for commercial purposes*** and other unethical practices; ***is concerned*** that individuals are often ***put under economic pressure*** to give consent in return for discounts or other commercial offers, or are forced to give consent by conditioning access to a service through tying provisions, in breach of Article 7 of GDPR;

*Amendment*

5. Reminds that since the start of the application of the GDPR, “consent” means any freely, given, specific, informed and unambiguous indication of the data subject’s wishes; notes that the implementation of valid consent continues to be compromised by the use of dark patterns and other unethical practices; ***notes*** that individuals are often ***encouraged*** to give consent in return for discounts or other commercial offers, or are forced to give consent by conditioning access to a service through tying provisions, in breach of Article 7 of GDPR;

Or. en

**Amendment 7**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 5 a (new)**

*Draft motion for a resolution*

***5 a. Reiterates that all six legal grounds for processing data, laid down in Art 6 GDPR, are equally sufficient and that consent is not the only legal basis; deplores that the guidance by national DPAs often ignores that the same processing activities can fall under different legal bases simultaneously; states that the use of all legal bases could also help against unfortunate adverse effects such as ‘cookie fatigue’;***

Or. en

## **Amendment 8**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

### **Draft motion for a resolution**

#### **Paragraph 5 b (new)**

*Draft motion for a resolution*

*Amendment*

***5 b. Takes note of the request of data controllers and processors for more legal clarity regarding the precise requirements to be met by data in order to be considered 'anonymised data' under the GDPR; calls upon the EDPB to review the WP29 Opinion 05/2014 on 'Anonymisation Techniques' and to establish a list of unambiguous criteria in order to achieve anonymization under the GDPR;***

Or. en

## **Amendment 9**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz**

### **Draft motion for a resolution**

#### **Paragraph 5 c (new)**

*Draft motion for a resolution*

*Amendment*

***5 c. Calls upon the EDPB to draw up harmonised rules on what constitutes valid consent to replace the different interpretations by many national DPAs; notes that the current situation in many Member States strongly diverges from European legal traditions and civil law principles and leads to unnecessary Fragmentation within the Digital Single Market;***

Or. en

## **Amendment 10**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 5 d (new)**

*Draft motion for a resolution*

*Amendment*

**5 d.** *Calls upon the EDPB to clarify the meaning of Recital 50 of the GDPR and assess whether a new legal basis is necessary for cases in which the data subject has initially given consent but where the personal data is further processed for another purpose than the purpose of the initial collection;*

Or. en

**Amendment 11**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 5 e (new)**

*Draft motion for a resolution*

*Amendment*

**5 e.** *Stresses that a viable solution has to be found to ensure that consent can be provided in scenarios in which data is processed for one or more specific purposes - such as high-frequency communications between multiple actors for instance machine-to-machine (M2M) or vehicle-to-everything (V2X) communications - and in which obtaining valid consent may prove impossible otherwise;*

Or. en

**Amendment 12**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 5 f (new)**

*Draft motion for a resolution*

*Amendment*

**5 f.** *Expresses its concern about the restrictive national interpretations of 'legitimate interest' that for instance rule out data processing for purely Commercial interests, although Recital 47 GDPR lists direct marketing as an example of a valid use of 'legitimate interest', or that hamper video surveillance of retailers to protect costumers against pickpocketing;*

Or. en

**Amendment 13**

**Axel Voss, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 5 g (new)**

*Draft motion for a resolution*

*Amendment*

**5 g.** *Calls upon the EDPB to provide more guidance on legal bases when it comes to new technological developments and business models as the current interpretations are often not flexible enough (e.g. Art 6(1b) GDPR when the contract is already part of an online service); points out that some emerging technologies such as AI, with its interconnected and autonomous elements, demand the reconsideration of the concept of informed consent as it is no longer viable;*

Or. en

**Amendment 14**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 5 h (new)**

*Draft motion for a resolution*

*Amendment*

**5 h.** *Calls upon the European Commission and the EDPB to create a user-friendly and transparent permission process to reduce the number of interactions between service providers and end-users ('cookie fatigue') while at the same time striking a balance between the protection of individual consumers and the secure processing of communications data based on pseudonymised data processing;*

Or. en

**Amendment 15**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution  
Paragraph 5 i (new)**

*Draft motion for a resolution*

*Amendment*

**5 i.** *Calls upon the EDPB to issue guidelines addressing the implementation of the accountability principle and clarifying the criteria for 'high risk processing of personal data';*

Or. en

**Amendment 16**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution  
Paragraph 6 a (new)**

*Draft motion for a resolution*

*Amendment*

**6 a.** *Takes note of the current practice of professional providers to pursue their commercial self-interest by incentivising data subjects to exercise their right to*

*information; notes that formal requirements should be introduced for tabling a request to exercise the right to information;*

Or. en

#### **Amendment 17**

**Axel Voss, Henna Virkkunen, Kris Peeters, Roberta Metsola, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

#### **Draft motion for a resolution Paragraph 6 b (new)**

*Draft motion for a resolution*

*Amendment*

**6 b.** *Highlights the advantages of creating a standardized and automated way to interact with GDPR decisions via an application programming interface (API);*

Or. en

#### **Amendment 18**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution Paragraph 7**

*Draft motion for a resolution*

*Amendment*

**7.** *Observes that some stakeholders report* that the application of the GDPR *is* challenging *especially* for small and medium sized enterprises (SMEs);

**7.** *Underlines* that the application of the GDPR *has been particularly* challenging for small and medium sized enterprises (SMEs), *start-ups, organisations associations, clubs as well as societies; notes that the compliance costs as well as legal uncertainty have strongly affected business models and investor confidence, resulting in product abandonment and entrepreneurial discouragement;*

Or. en

**Amendment 19**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 8**

*Draft motion for a resolution*

8. *Points out that there should be no derogation for SMEs; calls on the EDPB to provide practical tools to facilitate the implementation of the GDPR by SMEs with low risk processing activities;*

*Amendment*

8. *Calls for the inclusion of derogations for micro enterprises, societies, clubs, associations and private citizens as they are in particular affected by the new obligations - often in solely voluntary or private capacities;*

Or. en

**Amendment 20**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 8 a (new)**

*Draft motion for a resolution*

*8 a. Calls upon the EDPB to create a practical GDPR tool for SMEs and furthermore requests reporting exemptions in Art 30(5) GDPR for those SMEs that do not process high-risk data; notes in this regard that the term “occasionally” is legally ambiguous and should be clarified by the EDPB;*

*Amendment*

Or. en

**Amendment 21**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 8 b (new)**

*Draft motion for a resolution*

*Amendment*

**8 b.** *Calls upon the European Commission and the EDPB to build up a free of charge Privacy Policy generator that citizens, societies, clubs as well as micro-businesses can use to make and keep their website GDPR compliant; emphasises that the GDPR should no longer force private citizens or volunteers into hiring the service of law firms in order to avoid expensive legal warnings;*

Or. en

**Amendment 22**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 8 c (new)**

*Draft motion for a resolution*

*Amendment*

**8 c.** *Urges the Commission to accelerate its work on modernised standard contractual clauses for international data transfers to ensure a level-playing field for SMEs at international level; notes that binding corporate rules and a European codes of conduct would also help SMEs in meeting their obligations while keeping the administrative burden for them as low as possible;*

Or. en

**Amendment 23**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 9**

*Draft motion for a resolution*

9. Is concerned by the uneven level of enforcement of the GDPR by national data protection authorities (DPAs);

*Amendment*

9. Is concerned by the uneven level of enforcement of the GDPR by national data protection authorities (DPAs); ***calls upon all Member States to strengthen the enforcement, prosecution and punishment of data protection violations as so far only the smallest percentage of data protection complaints have been pursued;***

Or. en

**Amendment 24**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 10**

*Draft motion for a resolution*

10. ***Notes that since the start of application of the GDPR, though some significant fines have been issued for cases of serious breaches, the possibilities of the GDPR in this regard have by far not been used to their full extent with discrepancies in the severity of sanctions applied across the Member States;***

*Amendment*

10. ***Takes note that 785 administrative fines were imposed for different infringements during the first 18 months of GDPR application but highlights that the level of fines significantly differs between Member States; considers particularly the level of fines imposed on some multinational companies to be too low to serve as an effective deterrent and to incentivise more privacy-friendly processing;***

Or. en

**Amendment 25**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 10 a (new)**

*Draft motion for a resolution*

*Amendment*

**10 a.** *Calls upon the European Commission and the EDPB to harmonise penalties by bringing forward Guidelines and clear criteria in order to increase legal certainty and to prevent companies settling in locations that impose the lowest penalties;*

Or. en

### **Amendment 26**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution Paragraph 12**

*Draft motion for a resolution*

*Amendment*

12. *Deplores that DPAs of 21 Member States have explicitly stated that they do not have sufficient human, technical and financial resources to effectively perform their tasks and exercise their power;* urges the European Commission to take appropriate measures, including by starting infringement procedures without delay against those Member States that have failed to fulfil this obligation;

12. *Calls upon Member States to comply with their legal obligation to allow the proper enforcement of the GDPR rules across the Union by allocating greater funds to their DPAs in order to allow them to carry out their work in the best way possible and to ensure a European level playing field in the enforcement of the GDPR; notes that each DPA across Europe should have a sufficient and adequate level of human, technical, financial resources, premises and infrastructure;* urges the European Commission to take appropriate measures, including by starting infringement procedures without delay against those Member States that have failed to fulfil this obligation;

Or. en

### **Amendment 27**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 13**

*Draft motion for a resolution*

13. *Regrets that, as regards collective redress, the majority of Member States decided not to implement Article 80(2) of GDPR ; calls on all Member States to make use of Article 80(2);*

*Amendment*

13. *Requests the introduction of clear material thresholds (such as professional secrecy, suspected criminal offences, credit card accounts or passwords) for confirming a notifiable personal data breach; notes that a European standard data breach notification form, with English as second language, is necessary to harmonise the diverse national approaches; calls for additional guidance by the EDPB in order to specify the timeline for notifications as well as for setting up common standards on how to inform individuals and on how to make remediation;*

Or. en

**Amendment 28**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 13 a (new)**

*Draft motion for a resolution*

*13 a. Points out that some companies are exploiting the fact that some third countries do not have a high level of data protection to train their AI or to test their new data driven business models without any restrictions to advance in technical terms and eventually capture market shares in Europe;*

*Amendment*

Or. en

**Amendment 29**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 14**

*Draft motion for a resolution*

14. Points out that *the weak enforcement is particularly evident in cross-border complaints, i.e. cooperation and consistency mechanisms; calls on the EDPB to increase its efforts to ensure the correct application of Articles 60 and 63 GDPR and to make use of the urgency procedure of Article 66 GDPR;*

*Amendment*

14. *Underlines the importance of the one-stop-shop mechanism in providing legal certainty and reducing the administrative burden for companies and citizens alike; points out that each DPA in a cross-border investigation must follow the requirements and guidelines of the Lead Supervisory Authority and stick to the procedures outlined in Art 56 - 60 GDPR;*

Or. en

**Amendment 30**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 14 a (new)**

*Draft motion for a resolution*

*14 a. Calls for a better use of the mechanism under which any DPA, the EDPB Chair or the European Commission can request that a matter of general application or with effects to more than one Member State is examined by the EDPB in order to get an assessment of cases, in which competent DPAs fail to comply with the obligations under Art 61 or 62 GDPR;*

*Amendment*

Or. en

**Amendment 31**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 15**

*Draft motion for a resolution*

15. *Observes inconsistencies between the national guidance and the EDPB guidelines;*

*Amendment*

15. *Highlights that the guidelines by the EDPB, national or even local DPAs regularly lay out different approaches and interpretations of the GDPR, resulting in different applications among Member States; notes that this situation is creating geographical advantages as well as disadvantages for companies and therefore stresses the importance of a consistent interpretation of the GDPR to provide legal certainty;*

Or. en

**Amendment 32**

**Axel Voss, Roberta Metsola, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 15 a (new)**

*Draft motion for a resolution*

*15 a. Calls on the European Commission as well as the EDPB to strengthen the consistency mechanism and making it mandatory for any matter of general application or for any case with cross-border effects in order to avoid inconsistent approaches and decisions from individual DPAs that threaten the uniform interpretation and application of the GDPR;*

Or. en

**Amendment 33**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 17**

*Draft motion for a resolution*

17. *Observes a degree of fragmentation, which is notably due to the extensive use of facultative specification clauses; expresses concern that GDPR protections are being undermined by the way that Member States have implemented these specifications derogations (e.g. age of children to consent);*

*Amendment*

17. *Deplores that the use by Member States of the large number of opening clauses has been detrimental to the achievement of full data protection harmonisation across the EU, the acceleration of data sharing and the elimination of diverging market conditions for companies across the EU; notes that it is often not the GDPR that restricts data sharing but the stricter Member State rules that deviate from the GDPR; highlights that for instance Member States have adopted very different thresholds for the parental consent principle;*

Or. en

**Amendment 34**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 17 a (new)**

*Draft motion for a resolution*

*17 a. Regrets that currently companies in cases of conflicts of law have to decide whether they comply with national law of the Member State – thereby possibly infringing EU law – or if they observe the requirements of the GDPR - thereby possibly infringing the national law of the Member State;*

*Amendment*

Or. en

**Amendment 35**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**  
**Paragraph 17 b (new)**

*Draft motion for a resolution*

*Amendment*

**17 b. Calls upon the EDPB to bring Forward guidance on how to deal with the different implementation of opening clauses between Member States;**

Or. en

**Amendment 36**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 18**

*Draft motion for a resolution*

*Amendment*

18. Calls on the supervisory authorities to evaluate the implementation of Article 25 on data protection by design and by default, in particular with a view to implement the principles of data minimisation and purpose limitation, in line with EDPB guidelines;

18. Calls on the supervisory authorities to evaluate the implementation of Article 25 on data protection by design and by default, in particular with a view to implement the principles of data minimisation and purpose limitation, in line with EDPB guidelines; ***notes in this regard that it is still unclear what 'privacy by design' means in practice and therefore asks the EDPB for more guidance as well as a list of clear criteria;***

Or. en

**Amendment 37**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**  
**Paragraph 19**

*Draft motion for a resolution*

*Amendment*

19. Calls on the EDPB to develop standards and guidelines that help to implement data protection requirements

19. Calls on the EDPB to ***harmonise and*** develop standards and guidelines that help to implement data protection

into practice, i.a. *for data protection impact assessments (Article 35)*, information to data subjects (Articles 12–14), the exercise of data subjects' rights (Articles 15–18, 20–21), *and* records of processing activities (Article 30);

requirements into practice, i.a. *the risk-based approach*, information to data subjects (Articles 12–14), the exercise of data subjects' rights (Articles 15–18, 20–21), *joint-controllers (Art 26)*, records of processing activities (Article 30), *breach notifications (Art 33) and data protection impact assessments (Article 35)*;

Or. en

### **Amendment 38**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution**

##### **Paragraph 19 a (new)**

*Draft motion for a resolution*

*Amendment*

*19 a. Calls on the EDPB to critical assess its own role and the impact of its guidelines on industries and the data economy as a whole by identifying areas where its interpretation goes beyond the GDPR text and the will of the legislator; encourage the EDPB to also fulfil the task of a service provider that enables innovation across Europe;*

Or. en

### **Amendment 39**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz**

#### **Draft motion for a resolution**

##### **Paragraph 19 b (new)**

*Draft motion for a resolution*

*Amendment*

*19 b. Encourages the EDPB to clarify data processing for human resources purposes and to bring forward guidance in cases employees and applicants are making data subject requests as the GDPR does not cover this area very well;*

*calls upon the EDPB to also reconsider its reading of Art 30(5) GDPR and no longer interpret salary payments as ‘occasional’ data processing;*

Or. en

**Amendment 40**

**Axel Voss, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution  
Paragraph 19 c (new)**

*Draft motion for a resolution*

*Amendment*

*19 c. Takes note of the conclusion of the EDPB that the risk-based approach enshrined in the GDPR should be maintained; calls for the complementation of the EDPB with a board of stakeholders from research, industry, users and consumer organizations, religious associations and civil society organizations;*

Or. en

**Amendment 41**

**Axel Voss, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Roberta Metsola, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution  
Paragraph 20 a (new)**

*Draft motion for a resolution*

*Amendment*

*20 a. Believes that international cooperation in the field of data protection and the convergence of relevant rules will improve mutual trust, foster understanding of technological and legal challenges, and eventually facilitate cross-border data flows which are of key importance for international trade;*

**Amendment 42**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Roberta Metsola, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 21**

*Draft motion for a resolution*

21. *Stresses that* adequacy decisions *should not be political but* legal decisions;

*Amendment*

21. *Welcomes the European Commission's work on privacy* adequacy decisions *and encourages continued efforts to promote global legal frameworks to enable data transfers; takes also note that stakeholders continue to consider adequacy decisions an essential tool for such data flows since they do not attach them to additional conditions or authorisations;*

Or. en

**Amendment 43**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Roberta Metsola, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 21 a (new)**

*Draft motion for a resolution*

*Amendment*

*21 a. Welcomes the adoption of the first mutual adequacy decision between the EU and Japan, which has created the largest area of free and safe data flows in the world; emphasises however that so far adequacy decisions have only been adopted for nine countries even though many additional third countries have recently adopted new data protection laws with similar rules and principles as the GDPR; stresses in this regard that*

*adequacy decisions should not be political but legal decisions;*

Or. en

#### **Amendment 44**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution**

##### **Paragraph 22**

###### *Draft motion for a resolution*

22. Calls on the European Commission to publish the set of criteria used in determining whether a third country is deemed to provide an “essentially equivalent” level of protection to that afforded in the EU *especially with regards to access to remedies, and government access to data*;

###### *Amendment*

22. Calls on the European Commission to publish the set of criteria used in determining whether a third country is deemed to provide an “essentially equivalent” level of protection to that afforded in the EU;

Or. en

#### **Amendment 45**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

#### **Draft motion for a resolution**

##### **Paragraph 23**

###### *Draft motion for a resolution*

23. *Reiterates that mass surveillance programmes that encompass bulk data collection prevents adequacy findings;*

###### *Amendment*

23. *Takes note of the invalidation of the EU-US Privacy Shield by the CJEU ruling from July 2020; stresses that it puts many European SMEs, start-ups, universities and research institutes which had relied on the mechanism in legal limbo; calls on the Commission to engage in discussions with its US counterparts in order to find as soon as possible a viable solution for commercial personal data transfers between the EU and the US that*

*fully respects the conditions set by the CJEU;*

Or. en

**Amendment 46**

**Axel Voss, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 24**

*Draft motion for a resolution*

24. Calls on the *DPAs* to systematically assess whether data protection rules are applied in practice in third countries, in line with the European Court of Justice case-law;

*Amendment*

24. Calls on the *European Commission* to systematically assess whether data protection rules are applied in practice in third countries, in line with the European Court of Justice case-law;

Or. en

**Amendment 47**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 25 a (new)**

*Draft motion for a resolution*

*25 a. Highlights that, in the absence of an adequacy decision, standard contractual clauses (SCC) are the most widely used tool for international data transfers; takes note that the CJEU in its judgment in case C-311/18 Data Protection Commissioner v Facebook Ireland and Maximilian Schrems in July 2020 upheld the validity of Decision 1087/2010 on SCC;*

Or. en

**Amendment 48**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva**

Maydell, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz

**Draft motion for a resolution**

**Paragraph 25 b (new)**

*Draft motion for a resolution*

*Amendment*

**25 b.** *Welcomes the publication of draft SCCs by the European Commission and highlights the importance of including processor-to-processor as well as controller-processor clauses; welcomes also the objective to make SCCs more user-friendly and to address identified shortcomings of the current standards and underlines the need to include various SCCs on a number of issues that particularly SMEs find difficult to apply;*

Or. en

**Amendment 49**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 25 c (new)**

*Draft motion for a resolution*

*Amendment*

**25 c.** *Considers the draft EDPB guidelines to be totally impractical and that they would render SCCs useless as a data transfer tool; notes that those proposals are also not in line with the GDPR's risk-based approach or the CJEU judgement and stresses that the requirement of encryption of data at all moments outside of the EU is simply not feasible in practice; calls upon the EDPB to reconsider its draft guidelines as Europe is otherwise not able to transfer personal data internationally anymore;*

Or. en

**Amendment 50**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 25 d (new)**

*Draft motion for a resolution*

*Amendment*

**25 d. Calls upon the EDPB to bring forward guidance on the use of grace periods in cases when an existing adequacy decision was struck down or updated;**

Or. en

**Amendment 51**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 25 e (new)**

*Draft motion for a resolution*

*Amendment*

**25 e. States furthermore that also transfer mechanisms such as Codes of Conduct, Binding Corporate Rules (BCRs) and certification mechanisms are good means to foster international data transfers while ensuring compliance with GDPR standards;**

Or. en

**Amendment 52**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Daniel Caspary, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 25 f (new)**

*Draft motion for a resolution*

*Amendment*

**25 f. Calls upon the European Commission and the EDPB to develop**

*guidance on codes of conduct and to facilitate a pan-European code of conduct, to better support SMEs, to foster legal certainty and to encourage the use of this instrument for the international transfer of data; notes that the requirement of a compulsory supervisor to oversee and enforce sectoral codes of conduct should be withdrawn;*

Or. en

#### **Amendment 53**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

#### **Draft motion for a resolution**

**Paragraph 25 g (new)**

*Draft motion for a resolution*

*Amendment*

*25 g. Underlines that the bar for the creation and implementation of BCRs as determined by the DPA's Working Papers for BCRs is too strict and too narrow for digital matters;*

Or. en

#### **Amendment 54**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz**

#### **Draft motion for a resolution**

**Paragraph 25 h (new)**

*Draft motion for a resolution*

*Amendment*

*25 h. Calls upon the European Commission to develop together with the International Organisation for Standardization a voluntary international certification mechanism and Audit scheme for companies - in particular for providers of software and cloud solutions - to boost the use of a certification mechanisms as a means for international*

**Amendment 55**

**Axel Voss, Roberta Metsola, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 26**

*Draft motion for a resolution*

26. *Reminds the Commission of its obligation to ensure that measures to be presented in upcoming legislative proposals, in particular on data governance, data act, digital services act, artificial intelligence, must comply with the GDPR (EU) 2016/679 and Directive (EU) 2016/680;*

*Amendment*

26. *Shares the view of the Commission by being technology-neutral, the GDPR provides a solid regulatory framework for emerging technologies; considers nonetheless that further efforts are needed to clarify the application of the GDPR principles to these emerging technologies, to assess whether legal gaps exist and align its text with the new developments to carefully consider the correlation of the GDPR with each new legislative initiative, to preserve its risk-based approach and eventually, to avoid any interfering with the enforcement mechanisms established by the GDPR;*

**Amendment 56**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution**

**Paragraph 26 a (new)**

*Draft motion for a resolution*

*26 a. Calls on the European Commission in these regards to also address any obstacles that the GDPR may have unintentionally created to the development of innovative and emerging*

*technologies such as blockchain, artificial intelligence, big data or the Internet of Things; underlines that some very useful technologies for our society were obstructed by the new GDPR rules, exploiting the full benefits was prevented or disproportionate adjustments were necessary; asks therefore the EDPB to come up with necessary clarifications on how those new technologies can nevertheless thrive;*

Or. en

**Amendment 57**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution  
Paragraph 26 b (new)**

*Draft motion for a resolution*

*Amendment*

*26 b. States that the creation of common European data spaces will only be a success if at the same time the EU is capable to resolve the problems with the GDPR's implementation and divergent interpretations of it among the Member States;*

Or. en

**Amendment 58**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution  
Paragraph 26 c (new)**

*Draft motion for a resolution*

*Amendment*

*26 c. Recognises the increasing use of profiling and demands that profiling based on factors such as income, gender,*

*geographic location and others do not lead to discrimination in price, service quality or the availability of offers;*

Or. en

**Amendment 59**

**Axel Voss, Roberta Metsola, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Eva Maydell, Javier Zarzalejos, Daniel Caspary, Jeroen Lenaers, Pascal Arimont, Anna-Michelle Asimakopoulou, Ralf Seekatz, Isabel Wiseler-Lima**

**Draft motion for a resolution  
Paragraph 26 d (new)**

*Draft motion for a resolution*

*Amendment*

*26 d. Demands the strict enforcement of GDPR in the processing and the commercial use of personal data generated by wearable devices and voice assistants (e.g. in case of personalized advertisements or insurance applications); notes that at the same time, it should be ensured that data can be used, in compliance with GDPR, for the training and development of algorithms; calls to empower consumers to take informed decisions on the privacy implications of using these new technologies and to ensure that they have easy-to-use options to delete their personal data as is foreseen in the GDPR;*

Or. en

**Amendment 60**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution  
Subheading 12 a (new)**

*Draft motion for a resolution*

*Amendment*

**SECTORIAL ISSUES**

Or. en

**Amendment 61**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 27 a (new)**

*Draft motion for a resolution*

*Amendment*

*27 a. Acknowledges the need to update the rules governing the confidentiality of communications, which date back to 2002; takes note that the proposed e-privacy regulation has now being blocked in the Council for four years and therefore, should be withdrawn by the Commission; underlines that specific provisions to ensure the confidentiality of communication should be included to the GDPR as a new chapter;*

Or. en

**Amendment 62**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 27 b (new)**

*Draft motion for a resolution*

*Amendment*

*27 b. Notes that the European Commission's draft regulation as well as the European Parliament's first reading position both failed the objective of aligning the old ePrivacy directive with the GDPR but would instead create a separate track of privacy law that would throw the whole EU privacy policy into contention; underlines that if not completely withdrawn, the new ePrivacy regulation must cover only matters that are not already addressed by the GDPR (e.g. confidentiality of communications);*

**Amendment 63**

**Axel Voss, Henna Virkkunen, Daniel Caspary, Jeroen Lenaers, Javier Zarzalejos, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 27 c (new)**

*Draft motion for a resolution*

*Amendment*

*27 c. Stresses that microtargeting nowadays uses over 1500 criteria for profiling, which leads to political manipulation and commercial lock-up-effects for consumers; proposes therefore to limit the criteria for political microtargeting to three criteria, whereas commercial microtargeting should only be allowed if there is also the possibility for the consumer to search outside of the existing profile as if there would not be any profile; notes that the latter rule should also apply to search engines that are using rankings based on financial contributions from commercial actors;*

Or. en

**Amendment 64**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 28 a (new)**

*Draft motion for a resolution*

*Amendment*

*28 a. Under Subheading 12 a (new) -  
SECTORIAL ISSUES*

*29) Notes that the GDPR does not cover specific sectoral concerns, which led to a situation, in which the application of the GDPR still remains unclear; calls upon the EDPB to bring forward clear sectorial guidance for areas such as Health care*

*and finances; points out that the use of codes of conduct could also help resolving the legal uncertainty;*

Or. en

**Amendment 65**

**Axel Voss, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 28 b (new)**

*Draft motion for a resolution*

*Amendment*

**28 b. Under Subheading 12 a (new) -  
SECTORIAL ISSUES**

**30) Notes that the right of users to request that their provided and stored data is being transferred directly from one data holder to another in real-time, as granted by the PSD2, is not fully functioning in practice yet; supports the European Commission in its view that the effective use of this right could be increased by mandating technical interfaces that would allow the portability of data in real-time;**

Or. en

**Amendment 66**

**Axel Voss, Jörgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution**

**Paragraph 28 c (new)**

*Draft motion for a resolution*

*Amendment*

**28 c. Under Subheading 12 a (new) -  
SECTORIAL ISSUES**

**31) Underlines the importance in times of COVID-19 of a secondary use of data in health care and thus, calls for a broader interpretation of consent that would allow other purposes than initially foreseen;**

*underlines furthermore that the enhanced harmonisation in the field of personal data processing is critical for Research purposes;*

Or. en

**Amendment 67**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution  
Paragraph 28 d (new)**

*Draft motion for a resolution*

*Amendment*

**28 d. Under Subheading 12 a (new) -  
SECTORIAL ISSUES**

**32) Emphasises that profit-seeking companies are also carrying out important scientific research; calls consequently for a broad understanding of the ‘scientific research’ provision as well as a consistent approach regarding the use of sensitive personal data;**

Or. en

**Amendment 68**

**Axel Voss, Jürgen Warborn, Henna Virkkunen, Kris Peeters, Daniel Caspary, Jeroen Lenaers, Anna-Michelle Asimakopoulou, Ralf Seekatz**

**Draft motion for a resolution  
Paragraph 28 e (new)**

*Draft motion for a resolution*

*Amendment*

**28 e. Under Subheading 12 a (new) -  
SECTORIAL ISSUES**

**33) Calls upon the Commission to come up with a regime for health data to balance the protection of personal data while at the same time enabling European data spaces to train European AI, health research and to improve health services**

*for its citizens;*

Or. en