



2.6.2017

## **DRAFT OPINION**

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC  
(COM(2017)0008 – C8-0008/2017 – 2017/0002(COD))

Rapporteur for opinion: Angel Dzhambazki

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## SHORT JUSTIFICATION

The principle that everyone has the right to the protection of personal data concerning them is established by Article 16(1) of the Treaty on the Functioning of the European Union (TFEU). A specific legal basis for adopting rules on the protection of personal data is introduced in Article 16(2) TFEU. In addition, Article 8 of the Charter of Fundamental Rights of the European Union enshrines the protection of personal data as a fundamental right.

The right to the protection of personal data also applies to the processing of personal data by EU institutions, bodies, offices and agencies. Regulation (EC) No 45/2001, the main piece of existing EU legislation on personal data protection in the Union institutions, was adopted in 2001 with two objectives in mind: to protect the fundamental right to data protection and to guarantee the free flow of personal data throughout the Union.

The European Parliament and the Council adopted on 27 April 2016 Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). The General Data Protection Regulation will become applicable on 25 May 2018. This Regulation calls for Regulation (EC) No 45/2001 to be adapted to the principles and rules laid down in Regulation (EU) 2016/679 in order to provide a strong and coherent data protection framework in the Union and to enable both instruments to be applicable at the same time.

In the Proposal, the Commission has set the changes necessary for the adaption of the 2001 Regulation to the General Data Protection Regulation in a fair and balanced way. However, on one point, the proposal deviates in an unfounded way from the General Data Protection Regulation and that is in relation to the age for consent for minors.

## AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation Article 8 – paragraph 1

##### *Text proposed by the Commission*

(1) Where point (d) of Article 5(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 **13** years old. Where the child is below the age of **13** years, such processing shall be lawful only if and to the extent that

##### *Amendment*

(1) Where point (d) of Article 5(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

consent is given or authorised by the holder  
of parental responsibility over the child.

or authorised by the holder of parental  
responsibility over the child.

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