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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	5642/21
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Subject:	Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications)

I. INTRODUCTION

1. At the 1st trilogue on the ePrivacy Regulation on 20 May 2021, the co-legislators mandated the technical level to engage in discussions concerning Chapters III, V and VI of the proposal. These discussions took place during six technical meetings held in recent months and, as a consequence, it seems now that the possibilities to find more compromises at technical level in these chapters have been exhausted.

2. The co-legislators plan to hold the second trilogue on 18 November 2021. The aim of this trilogue is to close the above three chapters as completely as possible, with the exception of the issues that need to be addressed as elements of the final negotiating package at the closing trilogue. New chapters also have to be opened for discussions at the technical level.
3. The Presidency would like to summarize the status of the technical discussions and, ask for the Delegations for comments to facilitate finding an overall compromise with the Parliament. The parts under discussions with the EP are in the Annex to this document.

II. AMENDMENTS TO THE TEXT

Chapter III

Title, row 137

Both institutions agree that the chapter should cover both natural and legal persons. The term [end user] still has to be discussed as the Council aligned it with Article 2(13) of the EECC while the EP is inclined to use the definition of ‘user’ from the GDPR. The ‘end-user’ is therefore bracketed in several further rows.

The Presidency would like the Delegations to indicate their **approach to this question**.

Article 12

Paragraph (1), row 139

The Council mandate has deleted the ‘publicly available’ number-based interpersonal communications services, even though Article 2(2)(c) excludes from the scope those ECS that are not publicly available. On the other hand, Article 2(6) of the EECC defines NBICS as an ICS which connects with publicly assigned numbering resources and Article 115(1) also refers to providers of publicly available NBICS.

The ‘publicly available’ is bracketed several times throughout the chapters. The Presidency would like to know if Delegations are **flexible to reintroduce ‘publicly available’** in the text.

Article 13

Title, row 147

The draft agreement has reverted to the Commission’s proposal as this article is not about emergency communications only (see Art. 13(2)).

Paragraph (1), row 148

The notion of ‘emergency communications’ is not defined in Council text, but the terminology comes from EECC Article 2(38,39).

The last part of the paragraph reflects that PSAP is the physical place where the calls enter, the emergency relief itself is usually provided by different emergency services, not necessarily by the PSAP. The EP requests that the sole purpose of this override shall only be responding to PSAP and enable providing emergency relief.

The Presidency would like to know if **Delegations can agree to this wording**.

Paragraph (1a), row 148a

While the EP has been made aware that the presentation of the calling line identification is not always possible; to come to an agreement will require a text that limits this eventuality to the existing analogue networks and PSTN. Similarly, ‘has been prevented’ suggests deliberate action, whereas this prevention can be the effect outside the caller end-user’s competence.

The Presidency would like to know if Delegations can accept that ‘**where technically possible**’ would be narrowed to **PSTN** services.

The Presidency would also like to ask those Member States where a **PSAP is allowed to block calling line identification** to explain what are the technical reasons and the purpose of such limitation.

Paragraph (2), row 149

The Presidency would like to know if ‘**or otherwise address**’ could be deleted, and, whether the obligation to such override is linked to the technologies discussed in row 148a. This expression also appears in row 151a.

The question of the delegated act is set aside for later discussions.

Paragraph (3), row 149a

Geolocalisation is a sensitive issue for the EP. The wording on ‘Wi-Fi and other type of location data’ is still to be resolved. On the other hand, the co-legislators seem to agree that this question should be transferred to Article 8 and is to be discussed when Article 8 is opened for discussions at the technical level.

Article 14

Title, row 150

The Presidency **proposes to accept the new wording** proposed by the Commission. While there is no reliable definition of such types of calls, the ITU documents refer to malicious and nuisance calls as two types under the umbrella ‘unwanted calls’.

Paragraph (1), row 151

The agreement on this row by the EP depends on whether the Council can accept ‘publicly available’ here.

Paragraph (1a), row 151a will be moved to Article 13(2), row 149, therefore this row can be deleted.

Row 151b is now covered in row 151.

Article 15

Paragraph (1), row 155

The text is now aligned with the terminology in the GDPR (‘rectification’, ‘erasure’). The **Presidency would like to know the flexibility of the Delegations** as to:

- a) an extension of this obligation to ECS instead of NBICS (with flexibility in row 157b), even though Article 112 of EECR refers only to the NBICS; and
- b) whether this should refer to all end-users or only to natural persons.

Paragraph (1a), row 155a

The EP is open to accept this paragraph, supposing that the opt-out is limited to member states where such a system already exists and if the personal data that are meant to be included are specified. A possible compromise solution could be:

"Notwithstanding paragraph 1, Member States may maintain national measures adopted before [date of entry into force of the Regulation] provide by law allowing that the inclusion of personal data of an end-user who is a natural person in a publicly available directory can take place provided that the end-user who is a natural person shall have the right to object to such inclusion."

In Article 28(2), row 220: "No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The Commission shall in particular evaluate whether it is appropriate to modify Article 15 to mandate that the providers of number-based interpersonal communications services shall in all Member States obtain the consent of end-users who are natural persons to include their personal data in the directory and for inclusion of such data per category of personal data. The evaluation shall, where appropriate, inform a proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments."

In Paragraph (3), row 157, the terminology is aligned with row 155. Delegations are **invited to comment on the last sentence of the paragraph**.

Row 157a can be deleted since it is included in the compromise proposal in row 155.

Row 157b is also included in row 155, with less flexibility for the Member States on who shall obtain the consent from the end-users.

Article 16

Title, row 159

The EP would like to have a wording better aligned with the eCommerce Directive and does not want to limit the title to the direct marketing calls.

Paragraph (1), row 160

The main difference between the EP and the Council here is that the EP extends the recipients to legal persons ('users') and, in addition to the traditional definition of the DM, it wants to include various other types of advertisements, for example pop-up windows or email-like advertisements. Clarification on this technical issue would be welcome from the Commission.

Paragraph (2), row 161

Whereas the EP can accept the extension of the last sentence by the Council and the use of electronic 'message' instead of 'mail', it also considers important to delete the limitation 'similar' from before the 'products'.

Another area of disagreement is whether to limit the consent only to end-users who are natural persons.

In Paragraph (2a), row 161a, the EP would prefer the Commission to be empowered to issue a delegated act setting up this period of time. The Presidency would like to be informed on the practices of the Member States concerning the **relevant period of time allowed by their national law**.

Paragraph 16(3b), (3a), rows 164, 164b and 168

The Council mandate leaves the decision on allocating a prefix to DM calls in national competence. The EP's purpose is to harmonise, thereby resolving the problem of the cross-border calls. The Presidency would like to assess the flexibility of the Member States to entitle the Commission to allocate a prefix which the Member States may use in an implementing act.

Article 16(4), row 165

The Presidency would like to hear the opinion of the Delegations **on creating such a Do Not Call register at EU level** as proposed by the EP, and if the answer is positive, what organization should be responsible for setting up and running it (BEREC, EDPB). The wording of Article 16(5), row 166 will be linked to that of the title in row 159.

In Article 17(1), row 170, the EP is to reflect whether it could accept the references to the EECC, NIS and GDPR in a recital.

Article 17(1a)-(1c), rows 170a-170c

The Presidency would like to know the approach of the Member States to these paragraphs, especially on the encryption in para (1a).

Chapter V.

There is an overall agreement on Chapter V between the EP and the Council, with the exception of a few issues.

Article 21(1), rows 183 and 183c

The Council has amended the text of the proposal as the GDPR refers to "data subjects", "controller", "processor", a terminology alien to this regulation. Row 183c makes it clear that the GDPR applies on substance. The EP added a reference to Art. 80 on organisations and NGOs as well. The Council needs a clarification on the word 'everybody' in the EP text.

The EP has indicated that it does not insist to keep its amendments in rows 183a and 183b.

Article 23 on the fines (rows 187-199) is going to be discussed in the final phase of the negotiations.

Chapter VI.

Article 26(1) and (2), rows 212 and 213

These standard provisions will be needed if the co-legislators agree to give implementing powers to the Commission.

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
concerning the respect for private life and the protection of personal data in electronic communications
and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) (Text with
EEA relevance)**

2017/0003(COD)

Non-versioned [LATEST TEXT]

04-11-2021 at 16h55

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
CHAPTER III				
137	CHAPTER III NATURAL AND LEGAL PERSONS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	CHAPTER III NATURAL AND LEGAL PERSONS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	CHAPTER III NATURAL AND LEGAL PERSONS END-USERS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	
Article 12				
138	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification Text Origin: Commission

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
				Proposal
Article 12(1), introductory part				
139	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107 115] of the {Directive establishing the European Electronic Communication Code} (EU) 2018/1972, the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] 115 of the {Directive establishing the European Electronic Communication Code} (EU) 2018/1972, the providers of [publicly available] number-based interpersonal communications services shall provide the following: - remaining issue: [publicly available] Text Origin: Council Mandate
Article 12(1), point (a)				
140	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis; Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 12(1), point (b)				
141	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls; Text Origin: Commission Proposal
Article 12(1), point (c)				
142	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user; Text Origin: Commission Proposal
Article 12(1), point (d)				
143	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to the calling end-user.	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to the calling end-user.	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to which the calling end-user is connected .	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to <u>which</u> the calling end-user <u>is connected</u> . Text Origin: Council Mandate

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 12(2)				
144	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to <u>end-users</u> by simple means and free of charge. Text Origin: Council Mandate
Article 12(3)				
145	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries. Text Origin: Commission Proposal
Article 12(4)				
146	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based	4. Where presentation of calling or connected line identification is offered, providers of <u>publicly available</u> number-based

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d) of paragraph 1.	interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d) of paragraph 1.	interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d) of paragraph 1 paragraph 1 and the exceptions set forth in Article 13.	interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d) of paragraph 1 paragraph 1 and the exceptions set forth in Article 13. remaining issue: [publicly available] Text Origin: Council Mandate
Article 13				
147	Article 13 Exceptions to presentation and restriction of calling and connected line identification	Article 13 Exceptions to presentation and restriction of calling and connected line identification	Article 13 Exceptions to presentation and restriction of calling and connected line identification in relation to emergency communications	Article 13 Exceptions to presentation and restriction of calling and connected line identification COM proposal on 29/06/2021
Article 13(1)				
148	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services emergency communications are made to emergency services , providers of publicly available	1. Regardless of whether the calling end-user [end-user/user] has prevented the presentation of the calling line identification, where a call is made to emergency services an emergency communications is set up.

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	services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.	services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user a user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications. AM 123	number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.	providers of <u>[publicly available]</u> number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user <u>[end-user/user]</u> for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such <u>communications for the sole purpose of responding to emergency communications and enabling emergency services to provide emergency relief.</u>
Article 13(1a)				
148a			1a. Regardless whether the called end-user rejects incoming calls where the presentation of the calling line identification has been prevented by the calling end-user, providers of number-based interpersonal communications services shall override this choice, where	<u>1a.</u>

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
			technically possible, when the calling end-user is an organisation dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.	
Article 13(2)				
149	2. Member States shall establish more specific provisions with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where end-users request the tracing of malicious or nuisance calls.	2. Member States The Commission shall establish more specific provisions be empowered to adopt implementing measures in accordance with Article 26(1) with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where end-users users request the tracing of malicious or nuisance calls. AM 124	Deleted	2. [Member States shall establish more specific provisions / <u>The Commission shall be empowered to adopt implementing measures in accordance with Article 26]</u> with regard to the establishment of procedures and the circumstances where providers of [publicly available] number-based interpersonal communication services shall override[, or otherwise address,] the elimination of the presentation of the calling line identification on a temporary basis, where end-users [end-users/users] request the tracing of <u>unwanted</u> , malicious or nuisance calls.

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 13(3)				
149a			3. Notwithstanding Article 8(1), regardless of whether the end-user has prevented access to the terminal equipment's Global Navigation Satellite Systems (GNSS) capabilities or other types of terminal equipment based location data through the terminal equipment settings, when a call is made to emergency services, such settings may not prevent access to such location data to determine and provide the calling end-user's location to an organisation dealing with emergency communications, including public safety answering points, for the purpose of responding to such calls.	<u>2a.</u>
Article 14				
150	Article 14 Incoming call blocking	Article 14 Incoming call blocking	Article 14 Incoming call blocking Blocking unwanted, malicious or nuisance calls	Article 14 Incoming call blocking <u>Blocking of unwanted calls</u>
Article 14, first paragraph, introductory part				

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
151	Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit the reception of unwanted calls by end-users and shall also provide the called end-user with the following possibilities, free of charge:	Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit the reception of unwanted calls by end users and shall also provide the called end-user with the following possibilities, free of charge: AM 125	1 Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit the reception of unwanted calls by end users and shall also provide the called end user with the following possibilities, free of charge: malicious or nuisance calls by end-users.	<u>1</u> Providers of <u>[publicly available]</u> number-based interpersonal communications services <u>[shall deploy state of the art measures]</u> to limit <u>,upon the called end-user's request, the reception of, malicious or nuisance or other unwanted calls by providing</u> the reception of unwanted calls by end users and shall also provide the called end user with the following possibilities, free of charge: Commission to propose amended proposal
Article 14(1a)				
151a			1a Member States shall establish more specific provisions with regard to the establishment of transparent procedures and the circumstances where providers of number-based interpersonal communication services shall override, or otherwise address, the elimination of the presentation of the calling line identification on a temporary	

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
			basis, where end-users request the tracing of unwanted, malicious or nuisance calls.	
Article 14(2)				
151b			2. Providers of number-based interpersonal communications services shall also provide the called end-user with the following possibilities, free of charge:	
Article 14, first paragraph, point (a)				
152	(a) to block incoming calls from specific numbers or from anonymous sources;	(a) to block incoming calls from specific numbers, <i>or numbers having a specific code or prefix identifying the fact that the call is a marketing call referred to in Article 16(3)(b)</i> , or from anonymous sources; AM 126	(a) to block, where technically feasible , incoming calls from specific numbers or from anonymous sources or from numbers using a specific code or prefix referred to in Article 16(3a) ; and	(a) <u>(a)</u> to block <u>[,where technically feasible,]</u> incoming calls from specific numbers or from anonymous sources <u>or from numbers having a specific code or prefix referred to in Article 16(3)(b)/(3a)]</u> ;
Article 14, first paragraph, point (b)				
153	(b) to stop automatic call forwarding by a third party to the	(b) to stop automatic call forwarding by a third party to the	(b) to stop automatic call forwarding by a third party to the	(b) to stop automatic call forwarding by a third party to the

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	end-user's terminal equipment.	end user user's terminal equipment. AM 127	end-user's terminal equipment.	end user's <u>[user's/end-user's]</u> terminal equipment. Text Origin: Commission Proposal
Article 15				
154	Article 15 Publicly available directories	Article 15 Publicly available directories	Article 15 Publicly available directories	
Article 15(1)				
155	1. The providers of publicly available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.	1. The providers of publicly available directories <i>Without prejudice to Articles 12 to 22 of Regulation (EU) 2016/679, the electronic communication services providers</i> shall obtain the consent of end users who are natural persons users to include their personal data in the <i>publicly available</i> directory and, consequently, shall obtain consent from these end users users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory. <i>Electronic communication service</i>	1. The providers of publicly available directories number-based interpersonal communications services shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of such data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.	1. <u>Without prejudice to Articles 7(3), 12 to 20 and 22 of Regulation (EU) 2016/679</u> , the providers of <u>[electronic communications services/ number-based interpersonal communications services]</u> publicly available directories shall obtain the consent of end users who are natural persons <u>[end-users/users]</u> to include their personal data in the directory and, consequently, shall obtain consent from these end-users <u>[publicly available] directories and,</u> for inclusion of data per category of

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		<p><i>providers shall give users the means to verify, correct, update, supplement and delete such data as determined by the provider of the directory. When electronic communication service providers obtain consent of users, they shall give end users who are natural persons the means to verify, correct and delete such data make users' data available for public directory providers in an immediate, non-discriminatory and fair manner.</i></p> <p>AM 128</p>		<p>personal data, to the extent that such data are relevant for the purpose of the directory. <u>When providers of [electronic communications services/ number-based interpersonal communications services] obtain consent of [end-users/users], they shall make the relevant data available for [publicly available] directories providers in accordance with Article 112 (1) of Directive EU (2018)1972-as determined by the provider of the directory. Providers shall give end users who are natural persons of [publicly available] directories [and providers of electronic communications services/ number-based interpersonal communications services] shall give [end-users/users] the means to verify, correct, <u>update, supplement</u> and delete such data.</u></p>
Article 15(1a)				
155a			1a. Notwithstanding paragraph 1, Member States may provide by law that the inclusion of personal data of an end-user who	

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			is a natural person in a publicly available directory can take place provided that he end-user who is a natural person shall have the right to object to such inclusion.	
Article 15(2)				
156	2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain end-users' consent before enabling such search functions related to their own data.	2. The providers of a publicly available directory shall inform end-users who are natural persons <i>users</i> whose personal data are in the directory of the available search functions of the directory and obtain end-users' consent before enabling <i>provide the users the option to disable</i> such search functions related to their own data. AM 129	2. The providers of a publicly available directory <i>number-based interpersonal communications services</i> shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of any search function that is not based on name or number in the directory and obtain end-users' consent of end-users' before enabling such search functions related to their own data.	2. The providers of a /publicly available /directories <i>directory</i> shall inform end-users who are natural persons <i>[end-users/users]</i> whose personal data are in the directory of the available search functions of any search function that is not based on the name in the directory and obtain <i>[end-users' /users']</i> consent before enabling such search functions related to their own data. COM proposal 8/06/2021
Article 15(3)				
157	3. The providers of publicly available directories shall provide end-users that are legal persons with the possibility to object to	3. The providers of publicly available directories <i>electronic communication service providers</i> shall provide end-users that are	3. The providers of publicly available directories <i>number-based interpersonal communications services</i> shall provide end-users	3. The providers of publicly available directories <i>electronic communications services/ number-based</i>

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	<p>data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.</p>	<p>legal persons with the possibility to object to data related to them being included in the directory. <i>Electronic communication service</i> providers shall give such end-users that are legal persons the means to verify, correct and delete such data. <i>For the purposes of this Article, natural persons acting in a professional capacity, such as independent professionals, operators of small businesses or freelancers, shall be equated with legal persons, as regards their data related to their professional capacity.</i></p> <p>AM 130</p>	<p>that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.</p>	<p><u><i>interpersonal communications services/ providers</i></u> shall provide <u>[end-users]</u> that are legal persons with the possibility to object to data related to them being included in the directory. Providers of <u><i>of [publicly available] directories [and providers of electronic communications services/ number-based interpersonal communications services]</i></u> shall give such <u>[end-users]</u> that are legal persons the means to verify, correct and delete such data. <u><i>For the purposes of this Article, natural persons acting in a professional capacity, such as independent professionals, operators of small businesses or freelancers, shall be equated with legal persons, as regards their data related to their professional capacity.</i></u></p> <p>COM proposal 8/06/2021.</p> <p>[end-user] needs to be first double-checked against final definition of "user/ "end-user".</p>
Article 15(3a)				
157a				

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			3a. The providers of number-based interpersonal communications services shall give end-users the means to verify, correct and delete data included in a publicly available directory.	
Article 15(3aa)				
157b			3aa. Notwithstanding paragraphs 1aa to 3a, Member States may provide by law that the requirements under those paragraphs apply to providers of publicly available directories, in addition to or instead of, providers of number-based interpersonal communications services.	
Article 15(4)				
158	4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.	4. <i>Without prejudice to Article 12(5) of Regulation (EU) 2016/679, the information to the users and the possibility</i> The possibility for end-users not to be included in a publicly available directory, or to verify, correct,	4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.	4. The possibility for end-users <u>[end-users/users]</u> not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge <u>and</u>

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		<p><i>update, supplement and delete any data related to them shall be provided free of charge and in an easily accessible manner by the electronic communication services providers.</i></p> <p>AM 131</p>		<p><u><i>in an easily accessible manner.</i></u></p> <p>COM proposal 8/06/2021</p>
Article 15(4a)				
158a		<p><i>4a. Where the personal data of the users of number- based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such users may remain included in a publicly available directory, including versions with search functions, unless the users have expressed their objection against their data being included in the directory or against available search functions related to their data.</i></p> <p>AM 132</p>	<p>4a. Where the personal data of the end-users of number based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such end-users may remain included in a publicly available directory, including version with search functions, unless the end-users have expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</p>	<p><u><i>4a. Where the personal data of the [end-users/users] of number based interpersonal communications services have been included in a [publicly available] directory before this Regulation enters into force, the personal data of such [end-users] may remain included in a [publicly available] directory, including version with search functions, unless the [end-users/users] have expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</i></u></p> <p>COM proposal 8/06/2021</p>

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				[end-user]: needs to be double-checked against final definition of "user/ "end-user".
Article 16				
159	Article 16 Unsolicited communications	Article 16 Unsolicited communications	Article 16 Unsolicited and direct marketing communications	Article 16 Unsolicited <u>communications for direct marketing purposes</u> communications COM proposal 29/06/2021
Article 16(1)				
160	1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.	1. <i>The use by</i> natural or legal persons may use of electronic communications services, including automated calling, communications systems, semi-automated systems that connect the call person to an individual, faxes, e-mail or other use of electronic communications services for the purposes of <i>presenting or</i> sending direct marketing communications to end users who are natural persons that users, <i>shall be allowed only in respect of</i>	1. Natural or legal persons may use shall be prohibited from using electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that unless they have given their prior consent.	

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		<p><i>users who</i> have given their <i>prior</i> consent.</p> <p>AM 133</p>		
Article 16(2)				
161	<p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.</p>	<p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. <i>The customer shall be informed about</i> the right to object <i>and</i> shall be given <i>an easy way to exercise it</i> at the time of collection and each time a message is sent.</p> <p>AM 134</p>	<p>2. Notwithstanding paragraph 1, where a natural or legal person obtains electronic contact details for electronic mail from its customer message from end-users who are natural persons, in the context of the salepurchase of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customerssuch end-users are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection of such end-users' contact details and, if that end-user has not initially refused that use, and each time when a natural or legal person sends a message is sent to</p>	

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			that end-user for the purpose of direct marketing.	
Article 16(2a)				
161a			2a. Member States may provide by law a set period of time, after the sale of the product or service occurred, within which a natural or legal person may use contact details of the end-user who is a natural person for direct marketing purposes, as provided for in paragraph.	
Article 16(3), introductory part				
162	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall- present the calling line identification assigned to them.	
Article 16(3), point (a)				
163	(a) present the identity of a line on which they can be contacted; or	(a) present the identity of a line on which they can be contacted; or		

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Article 16(3), point (b)				
164	(b) present a specific code/or prefix identifying the fact that the call is a marketing call.	(b) present a specific code/or prefix identifying the fact that the call is a marketing call.		
Article 16(3a)				
164a		<i>3a. The masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited communications for direct marketing purposes is prohibited.</i> AM 135		
Article 16(3a)				
164b			3a. Member States may require natural or legal person using electronic communications services for the purposes of placing direct marketing calls to present a specific code or prefix identifying the fact that the call is a direct marketing call in addition to the obligation set out	

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			in paragraph 3. Member State requiring the use of such a specific code or prefix shall make it available for the natural or legal persons who use electronic communications services for the purposes of direct marketing calls.	
Article 16(4)				
165	4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.	4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons users shall only be allowed in respect of end-users who are natural persons users who have not expressed their objection to receiving those communications. <i>Member States shall provide that users can object to receiving the direct marketing voice-to-voice calls via a Do Not Call Register, thereby also ensuring that the user needs to opt- out only once.</i> AM 136	4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.	4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice to voice calls to end users who are natural persons shall only be allowed in respect of end users who are natural persons who have not expressed their objection to receiving those communications.
Article 16(5)				

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166	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited direct marketing communications sent by means set forth under paragraph 1 are sufficiently protected.	
Article 16(6)				
167	6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.	6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner and free of charge , to receiving further marketing communications. AM 137	6. Any natural or legal person using electronic communications services to transmit send direct marketing communications shall, each time a direct inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications sent:	

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Article 16(6), point (a)				
167a			(a) reveal his or its identity and use effective return addresses or numbers;	
Article 16(6), point (b)				
167b			(b) inform end-users of the marketing nature of the communication and the identity and contact details of the legal or natural person on behalf of whom the direct marketing communication is sent;	
Article 16(6), point (c)				
167c			(c) clearly and distinctly give the end-users who are natural persons a means to object or to withdraw their consent, free of charge, at any time, and in an easy and effective manner, to receiving further direct marketing communications, and shall provide the necessary information to this end. This means shall also be given at the time of collection of the contact	

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			details according to paragraph 2. It shall be as easy to withdraw as to give consent.	
Article 16(7)				
168	7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.	7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) 26(1) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3. AM 138	Deleted	
Article 17				
169	Article 17 Information about detected security risks	Article 17 Information about detected security risks	Deleted	
Article 17(1)				
170	In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic	1. In the case of a particular risk that may compromise Providers of electronic communications services shall comply with the security obligations as prescribed		

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	communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.	<p>Regulation (EU) 2016/679 and [European Electronic Communications Code]. As regards the security of networks and electronic communications services, the provider of a services and related security obligations, the obligations of Article 40 of the [European Electronic Communications serviceCode] shall inform end users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end users of any possible remedies, including an indication of the likely costs involved apply <i>mutatis mutandis</i> to all services in the scope of this Regulation. This Article shall be without prejudice to the obligations provided for in Articles 32 to 34 of Regulation (EU) 2016/679 and the obligations provided for in Directive (EU) 2016/1148.</p> <p>AM 139</p>		
Article 17, first paragraph a				
170a		1a. Providers of electronic		

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		<p><i>communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and that the confidentiality and integrity of the communication in transmission or stored are also guaranteed by technical measures according to the state of the art, such as cryptographic methods including end-to-end encryption of the electronic communications data. When encryption of electronic communications data is used, decryption by anybody else than the user shall be prohibited. Notwithstanding Articles 11a and 11b of this Regulation, member States shall not impose any obligations on electronic communications service providers or software manufacturers that would result in the weakening of the confidentiality and integrity of their networks and services or the terminal equipment, including the encryption methods used.</i></p> <p>AM 140</p>		

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Article 17, first paragraph b				
170b		<p><i>1b. Providers of electronic communications services, providers of information society services, and manufacturers of software permitting the retrieval and presentation of information on the internet shall not use any means, no matter if technical, operational, or by terms of use or by contracts, that could prevent users and subscribers from applying the best available techniques against intrusions and interceptions and to secure their networks, terminal equipment and electronic communications.</i></p> <p><i>Notwithstanding Articles 11a and 11b of this Regulation, breaking, decrypting, restricting or circumventing such measure taken by users or subscribers shall be prohibited.</i></p> <p>AM 141</p>		
Article 17, first paragraph c				
170c		<p><i>1c. In the case of a particular risk that may compromise the security</i></p>		

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		<p><i>of networks, electronic communications services, information society services or software, the relevant provider or manufacturer shall inform all subscribers of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform subscribers of any possible remedies. It shall also inform the relevant manufacturer and service provider.</i></p> <p>AM 142</p>		
CHAPTER V				
181	CHAPTER V REMEDIES, LIABILITY AND PENALTIES	CHAPTER V REMEDIES, LIABILITY AND PENALTIES	CHAPTER V REMEDIES, LIABILITY AND PENALTIES	
Article 21				
182	Article 21 Remedies	Article 21 Remedies	Article 21 Remedies	Article 21 Remedies Text Origin: Commission Proposal
Article 21(1)				

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183	1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, and 79 of Regulation (EU) 2016/679.	1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services <i>and, where applicable, everybody, organisation or association</i> , shall have the same remedies provided for in Articles 77, 78, 79 and 80 and 79 of Regulation (EU) 2016/679. AM 148	1. Without prejudice to any other administrative or judicial remedy, every end-user shall have the right to an effective judicial remedy in relation to any infringement of rights under this Regulation, the right to lodge a complaint with a supervisory authority and the right to an effective judicial remedy against any legally binding decision of a supervisory authority concerning them of electronic communications services shall have the same remedies provided for in Articles 77, 78, and 79 of Regulation (EU) 2016/679.	
Article 21(1a)				
183a		<i>1a. Without prejudice to any other administrative or non-judicial remedy, every end-user of electronic communications services shall have the right to an effective judicial remedy against a legally binding decision of a supervisory authority concerning him or her. End-users shall also have such a right where the</i>		

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		<p><i>supervisory authority does not handle a complaint or does not inform the end- user within three months on the progress or outcome of the complaint lodged. Proceedings against a supervisory authority shall be brought before the court of the Member State where the supervisory authority is established.</i></p> <p>AM 149</p>		
Article 21(1b)				
183b		<p><i>1b. Every end-user of the communications services shall have the right to an effective judicial remedy where he or she considers that his or her rights under this Regulation have been infringed. Those proceedings against a provider of electronic communication service, the provider of a publicly available directory, software provider enabling electronic communication or persons sending direct marketing commercial communications or collecting information related to</i></p>		

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		<p><i>or stored in the end-users terminal equipment shall be brought before the courts of the Member State where they have an establishment. Alternatively, such proceedings shall be brought before the court of the Member State of the habitual residence of the end-user.</i></p> <p>AM 150</p>		
Article 21(1a)				
183c			1a. Articles 77-80 of Regulation (EU) 2016/679 shall apply mutatis mutandis.	
Article 21(2)				
184	2. Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a	2. Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a	2. Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements , including a provider of electronic communications services protecting its legitimate business interests, shall have a	2. Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements , including a provider of electronic communications services protecting its legitimate business interests, shall have a

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	right to bring legal proceedings in respect of such infringements.	right to bring legal proceedings in respect of such infringements.	right to bring legal proceedings in respect of such infringements.	right to bring legal proceedings in respect of such infringements. Text Origin: Council Mandate
Article 22				
185	Article 22 Right to compensation and liability	Article 22 Right to compensation and liability	Article 22 Right to compensation and liability	Article 22 Right to compensation and liability Text Origin: Commission Proposal
Article 22, first paragraph				
186	Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.	Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.	Any end-user of electronic communications services person who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.	
Article 23				

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187	Article 23 General conditions for imposing administrative fines	Article 23 General conditions for imposing administrative fines	Article 23 General conditions for imposing administrative fines	Article 23 General conditions for imposing administrative fines Text Origin: Commission Proposal
Article 23(1)				
188	1. For the purpose of this Article, Chapter VII of Regulation (EU) 2016/679 shall apply to infringements of this Regulation.	1. For the purpose of this Article, Chapter VII of Regulation (EU) 2016/679 shall apply to infringements of this Regulation, <i>mutatis mutandis</i> . AM 151	1. For the purpose of this Article, Chapter VII 83 of Regulation (EU) 2016/679 shall apply mutatis mutandis to infringements of this Regulation.	
Article 23(2), introductory part				
189	2. Infringements of the following provisions of this Regulation shall, in accordance with paragraph 1, be subject to administrative fines up to EUR 10 000 000, or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:	2. Infringements of the following provisions of this Regulation shall, in accordance with paragraph 1, be subject to administrative fines up to EUR 10 000 000, or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:	2. Infringements of the following provisions of this Regulation shall, in accordance with paragraph 1, be subject to administrative fines up to EUR 10 000 000, or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:	2. Infringements of the following provisions of this Regulation shall, in accordance with paragraph 1, be subject to administrative fines up to EUR 10 000 000, or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher: Text Origin: Commission

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				Proposal
Article 23(2), point (a)				
190	(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;	(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8; AM 152 deleted	(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;	
Article 23(2), point (aa)				
190a		(aa) <i>the obligations of the providers of electronic communications services pursuant to Article 11c;</i> AM 153		EP: Linked to line 136k
Article 23(2), point (b)				
191	(b) the obligations of the provider of software enabling electronic communications, pursuant to Article 10;	(b) the obligations of the provider of software enabling electronic communications, pursuant to Article 10; AM 154 deleted	Deleted	
Article 23(2), point (ba)				

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191a		<p><i>(ba) the obligations of the providers of publicly available number-based interpersonal communication services pursuant to Articles 12, 13 and 14.</i></p> <p>AM 155</p>		
Article 23(2), point (c)				
192	(c) the obligations of the providers of publicly available directories pursuant to Article 15;	(c) the obligations of the providers of publicly available directories pursuant to Article 15;	(c) the obligations of the providers of publicly available directories pursuant to Article 15;	<p>(c) the obligations of the providers of publicly available directories pursuant to Article 15;</p> <p>Text Origin: Commission Proposal</p>
Article 23(2), point (d)				
193	(d) the obligations of any legal or natural person who uses electronic communications services pursuant to Article 16.	(d) the obligations of any legal or natural person who uses electronic communications services pursuant to Article 16.	(d) the obligations of any legal or natural person who uses electronic communications services pursuant to Article 16.	<p>(d) the obligations of any legal or natural person who uses electronic communications services pursuant to Article 16.</p> <p>Text Origin: Commission Proposal</p>
Article 23(2), point (e)				
193a			(e) the obligation to designate a	

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			representative pursuant to Article 3 number 2.	
Article 23(3)				
194	3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7 shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.	3. Infringements of the <i>principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7</i> following provisions of <i>this Regulation</i> shall, in accordance with paragraph 1 <i>of this Article</i> , be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher: AM 156	3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7 shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.	
Article 23(3), point (a)				
194a		<i>(a) the principle of confidentiality of communications pursuant to Article 5;</i> AM 157		

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Article 23(3), point (b)				
194b		<p><i>(b) the permitted processing of electronic communications data, pursuant to Article 6;</i></p> <p>AM 158</p>		
Article 23(3), point (c)				
194c		<p><i>(c) the time limits for erasure and the confidentiality obligations pursuant to Article 7;</i></p> <p>AM 159</p>		
Article 23(3), point (d)				
194d		<p><i>(d) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;</i></p> <p>AM 160</p>		
Article 23(3), point (e)				
194e		<p><i>(e) the requirements for consent pursuant to Article 9;</i></p>		

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		AM 161		
Article 23(3), point (f)				
194f		<p><i>(f) the obligations of the provider of software enabling electronic communications, pursuant to Article 10;</i></p> <p>AM 162</p>		
Article 23(3), point (g)				
194g		<p><i>(g) the obligations of the providers of electronic communications services, of the providers of information society services, or of the manufacturers of software permitting the retrieval and presentation of information on the internet pursuant to Article 17.</i></p> <p>AM 163</p>		
Article 23(4)				
195	4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13,	4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13,	4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13,	

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	14, and 17.	14, and 17 <i>In the event that the same act or omission by the same person results in non-compliance with both Regulation (EU) 2016/679 and this Regulation, then the maximum administrative fine shall be no more than the maximum administrative fine applicable under this Regulation for that type of infringement.</i>	14, and 17 and 14.	
		AM 164		
Article 23(5)				
196	5. Non-compliance with an order by a supervisory authority as referred to in Article 18, shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.	5. Non-compliance with an order by a supervisory authority as referred to in Article 18, shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.	5. Non-compliance with an order by a supervisory authority as referred to in Article 18, shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.	5. Non-compliance with an order by a supervisory authority as referred to in Article 18, shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher. Text Origin: Commission Proposal
Article 23(6)				
197	6. Without prejudice to the	6. Without prejudice to the	6. Without prejudice to the	6. Without prejudice to the

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	corrective powers of supervisory authorities pursuant to Article 18, each Member State may lay down rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.	corrective powers of supervisory authorities pursuant to Article 18, each Member State may lay down rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.	corrective powers of supervisory authorities pursuant to Article 18, each Member State may lay down rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.	corrective powers of supervisory authorities pursuant to Article 18, each Member State may lay down rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State. Text Origin: Commission Proposal
Article 23(7)				
198	7. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.	7. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.	7. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.	7. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process. Text Origin: Commission Proposal
Article 23(8)				
199	8. Where the legal system of the Member State does not provide for administrative fines, this Article	8. Where the legal system of the Member State does not provide for administrative fines, this Article	8. Where the legal system of the Member State does not provide for administrative fines, this Article	8. Where the legal system of the Member State does not provide for administrative fines, this Article

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	<p>may be applied in such a manner that the fine is initiated by the competent supervisory authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by supervisory authorities. In any event, the fines imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [xxx] and, without delay, any subsequent amendment law or amendment affecting them.</p>	<p>may be applied in such a manner that the fine is initiated by the competent supervisory authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by supervisory authorities. In any event, the fines imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [xxx] and, without delay, any subsequent amendment law or amendment affecting them.</p>	<p>may be applied in such a manner that the fine is initiated by the competent supervisory authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by supervisory authorities. In any event, the fines imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [xxx] and, without delay, any subsequent amendment law or amendment affecting them.</p>	<p>may be applied in such a manner that the fine is initiated by the competent supervisory authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by supervisory authorities. In any event, the fines imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [xxx] and, without delay, any subsequent amendment law or amendment affecting them.</p> <p><small>Text Origin: Commission Proposal</small></p>
Article 24				
200	Article 24 Penalties	Article 24 Penalties	Article 24 Penalties	Article 24 Penalties <small>Text Origin: Commission Proposal</small>
Article 24(1)				

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
201	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 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.	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 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.	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 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.	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 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive. Text Origin: Commission Proposal
Article 24(2)				
202	2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them.	2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them.	2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them.	2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them. Text Origin: Council Mandate
CHAPTER VI				
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	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	CHAPTER VI DELEGATED ACTS AND IMPLEMENTING ACTS	CHAPTER VI DELEGATED ACTS AND IMPLEMENTING ACTS	CHAPTER VI DELEGATED ACTS AND IMPLEMENTING ACTS	CHAPTER VI DELEGATED ACTS AND IMPLEMENTING ACTS Text Origin: Commission Proposal
Article 25				
204	Article 25 Exercise of the delegation	Article 25 Exercise of the delegation	Article 25 Exercise of the delegation	
Article 25(1)				
205	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
Article 25(2)				
206	2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [the data of entering into force of this Regulation].	2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [the data of entering into force of this Regulation].	2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [the data of entering into force of this Regulation].	

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 25(3)				
207	3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
Article 25(4)				
208	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.	
Article 25(5)				
209				

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
Article 25(6)				
210	6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	
Article 26				
211	Article 26 Committee	Article 26 Committee	Article 26 Committee	
Article 26(1)				

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
212	<p>1. The Commission shall be assisted by the Communications Committee established under Article 110 of the [Directive establishing the European Electronic Communications Code]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).</p>	<p>1. <i>For the purpose of Articles 13(2) and 16(7)</i>, the Commission shall be assisted by the Communications Committee established under Article 110 of the [Directive establishing the European Electronic Communications Code]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).</p> <p>AM 165</p>	<p>1. The Commission shall be assisted by the Communications Committee established under Article 110 of the [118 of Directive establishing the European Electronic Communications Code](EU) 2018/1972. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011^{4[1]}.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).</p>	
Article 26(2)				
213	<p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p>	<p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p>	<p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p>	
Article 28				
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	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	Article 28 Monitoring and evaluation clause	Article 28 Monitoring and evaluation clause	Article 28 Monitoring and evaluation clause	Article 28 Monitoring and evaluation clause Text Origin: Commission Proposal
Article 28, first paragraph				
219	By 1 January 2018 at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.	By 1 January 2018 <i>[the date of entry into force of this Regulation]</i> at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation. AM 167	By [1 August 2024] 1 January 2018 at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.	
Article 28, second paragraph				
220	No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a	No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a	No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a	No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.	proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.	proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.	proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments. Text Origin: Commission Proposal