

COMP Article 9
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Article 9
Special categories of data

1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or *philosophical* beliefs, *sexual orientation or gender identity*, trade-union membership *and activities*, and the processing of genetic *or biometric* data or data concerning health or sex life, ~~or administrative sanctions, judgments~~, criminal *or suspected offences*, convictions, or related security measures shall be prohibited.

2. Paragraph 1 shall not apply if one of the following applies:

(a) the data subject has given consent to the processing of those personal data *for one or more specified purposes*, subject to the conditions laid down in Articles 7 and 8, except where Union law or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject, or

(aa) processing is necessary for the performance or execution of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller in the field of employment law in so far as it is authorised by Union law or Member State law *or collective agreements* providing for adequate safeguards *for the fundamental rights and the interests of the data subject such as right to non-discrimination, subject to the conditions and safeguards referred to in Article 82*; or

(c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent; or

(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed outside that body without the consent of the data subjects;

(e) the processing relates to personal data which are manifestly made public by the data subject; or

(f) processing is necessary for the establishment, exercise or defence of legal claims; or

(g) processing is necessary for the performance of a task carried out ~~in the~~ *for reasons of high* public interest, on the basis of Union law, or Member State law which shall *be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable measures to safeguard the fundamental rights and the data subject's legitimate* interests *of the data subject*; or

(h) processing of data concerning health is necessary for health purposes and subject to the conditions and safeguards referred to in Article 81; or

(i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83; or

(i a) processing is necessary for archive services subject to the conditions and safeguards referred to in Article 83a; or

(j) processing of data relating to ***administrative sanctions, judgments, criminal offences, convictions or related security measures*** is carried out either under the control of official authority or when the processing is necessary for compliance with a legal or regulatory obligation to which a controller is subject, or for the performance of a task carried out for important public interest reasons, and in so far as authorised by Union law or Member State law providing for adequate safeguards ***for the fundamental rights and the interests of the data subject***. ~~A complete~~ Any register of criminal convictions shall be kept only under the control of official authority.

3. The ***European Data Protection Board Commission*** shall be ***entrusted with the task empowered to adopt delegated acts in accordance with Article 86 for the purpose of issuing guidelines, recommendations and best practices further specifying the criteria and requirements*** for the processing of the special categories of personal data referred to in paragraph 1 and the exemptions laid down in paragraph 2, ***in accordance with Article 66***.

Recitals

~~***(41) Personal data which are, by their nature, particularly sensitive and vulnerable in relation to fundamental rights or privacy, deserve specific protection. Such data should not be processed, unless the data subject gives his explicit consent. However, derogations from this prohibition should be explicitly provided for in respect of specific needs, in particular where the processing is carried out in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms.***~~

(42) Derogating from the prohibition on processing sensitive categories of data should also be allowed if done by a law, and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where grounds of public interest so justify and in particular for health purposes, including public health and social protection and the management of health-care services, especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system, ~~or~~ for historical, statistical and scientific research purposes, ***or for archive services***.