

COMP Article 21

16.10.2013

Article 21 Restrictions

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights ~~provided for in points (a) to (e) of Article 5 and~~ Articles 11 to ~~19 20~~ and Article 32, when such a restriction *constitutes meets a clearly defined objective of public interest, respects the essence of the right to protection of personal data, is proportionate to the legitimate aim pursued and respects the fundamental rights and interests of the data subject and is* a necessary and proportionate measure in a democratic society to safeguard:

(a) public security;

(b) the prevention, investigation, detection and prosecution of criminal offences;

(c) ~~other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and~~ taxation matters ~~and the protection of market stability and integrity~~;

(d) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;

(e) a monitoring, inspection or regulatory function *in the framework of connected, even occasionally, with* the exercise of a *competent public official* authority in cases referred to in (a), (b), (c) and (d);

(f) the protection of the data subject or the rights and freedoms of others.

2. In particular, any legislative measure referred to in paragraph 1 *must be necessary and proportionate in a democratic society and* shall contain specific provisions at least as to:

(a) the objectives to be pursued by the processing ~~and~~;

(b) the determination of the controller;

(c) *the specific purposes and means of processing*;

(d) *the safeguards to prevent abuse or unlawful access or transfer*;

(e) *the right of data subjects to be informed about the restriction*.

2a. Legislative measures referred to in paragraph 1 shall neither permit nor oblige private controllers to retain data additional to those strictly necessary for the original purpose.

Recitals

(59) Restrictions on specific principles and on the rights of information, ~~access,~~ rectification and erasure or on the right of **access and to obtain** data, the right to object, profiling, as well as on the communication of a personal data breach to a data subject and on certain related obligations of the controllers may be imposed by Union or Member State law, as far as necessary and proportionate in a democratic society to safeguard public security, including the protection of human life especially in response to natural or man made disasters, the prevention, investigation and prosecution of criminal offences or of breaches of ethics for regulated professions, other **specific and well-defined** public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or the protection of the data subject or the rights and freedoms of others. Those restrictions should be in compliance with requirements set out by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms.