



**Amendments to the proposal for a Regulation on Data Protection
26-02-2013**

Amendment 1

Proposal for a regulation

Article 9 – paragraph 2 – point h)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. Paragraph 1 shall not apply where: (...) (h) processing of data concerning health is necessary for health purposes and subject to the conditions an safeguards referred to in Article 81;	2. Paragraph 1 shall not apply where: (...) (h) processing of data concerning health is necessary for health and insurance purposes and subject to the conditions an safeguards referred to in Article 81;

Justification

Processing of relevant health data is fundamental not only for health insurance (as provided for in Article 81), but also for other forms of insurance (e.g. life insurance), and should be allowed for the assessment of insured risks, the calculation of premiums and the settlement of claims and the payment of benefits without the obligation to request the explicit, specific and informed consent of the data subject prior to every processing. See further the amendment as to Article 81 Regulation.



Amendment 2

Proposal for a regulation

Article 9 - paragraph 2 – point j)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(j) processing of data relating to criminal 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. A complete register of criminal convictions shall be kept only under the control of official authority.	(j) processing of data relating to criminal 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, for the prevention or detection of fraud, 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. A complete register of criminal convictions shall be kept only under the control of official authority.

Justification

In order to prevent and detect insurance, payment and other forms of fraud, e.g. the financial services industry processes personal data and shares and cross-checks these with other financial services companies. This not only to prevent damage to the controller itself but also to protect other financial services companies and the financial services sector as a whole. The data processed may include data relating to criminal convictions and data which may lead to a criminal conviction, which will be covered by Article 9. Requesting consent for this processing is not an option.



Amendment 3

Proposal for a regulation

Article 17 – paragraph 3 – point f) new

	<i>Amendment</i>
	f) for purposes of the prevention and detection of fraud, and to the extent criminal data are processed, such processing is in accordance with Article 9(2) point j).

Justification

Personal data (including criminal data) processed for the purposes of the prevention and detection of fraud should be exempted from the right to be forgotten and erasure. In respect of criminal data this is currently not covered by the exception in Article 17(3) point d). The wording of Article 9(2) point j) (new) is broader than Article 17(3) point d) and also covers the prevention and detection of fraud. See further the justification of the amendment in respect of Article 9(2) point (j).



Amendment 4

Proposal for a regulation

Article 81 – paragraph 1 – sub d) new

	<i>Amendment</i>
	d) purposes of the entering into, or performance of, insurance contracts, especially in order to make an assessment of insured risks, the calculation of premiums, the settlement of claims and payment of benefits and the prevention and detection of fraud under insurance contracts.

Justification

Processing of relevant health data is fundamental for instance for the provision of insurance services (e.g. life insurance), and should be allowed for the assessment of insured risks, the calculation of premiums and the settlement of claims and the payment of benefits without the obligation to request the explicit, specific and informed consent of the data subject prior to every processing.

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