

Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA

#### *CHAPTER IV*

#### ***Controller and processor***

##### *Section 1*

#### ***General obligations***

##### *Article 22*

#### **Processor**

1 Member States shall, where processing is to be carried out on behalf of a controller, provide for the controller to use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of this Directive and ensure the protection of the rights of the data subject.

2 Member States shall provide for the processor not to engage another processor without prior specific or general written authorisation by the controller. In the case of general written authorisation, the processor shall inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes.

3 Member States shall provide for the processing by a processor to be governed by a contract or other legal act under Union or Member State law, that is binding on the processor with regard to the controller and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. That contract or other legal act shall stipulate, in particular, that the processor:

- a acts only on instructions from the controller;
- b ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- c assists the controller by any appropriate means to ensure compliance with the provisions on the data subject's rights;
- d at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of data processing services, and deletes existing copies unless Union or Member State law requires storage of the personal data;
- e makes available to the controller all information necessary to demonstrate compliance with this Article;

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f complies with the conditions referred to in paragraphs 2 and 3 for engaging another processor.

4 The contract or the other legal act referred to in paragraph 3 shall be in writing, including in an electronic form.

5 If a processor determines, in infringement of this Directive, the purposes and means of processing, that processor shall be considered to be a controller in respect of that processing.