

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 28

Prior consultation of the supervisory authority

- 1 Member States shall provide for the controller or processor to consult the supervisory authority prior to processing which will form part of a new filing system to be created, where:
 - a a data protection impact assessment as provided for in Article 27 indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk; or
 - b the type of processing, in particular, where using new technologies, mechanisms or procedures, involves a high risk to the rights and freedoms of data subjects.
- 2 Member States shall provide for the supervisory authority to be consulted during the preparation of a proposal for a legislative measure to be adopted by a national parliament or of a regulatory measure based on such a legislative measure, which relates to processing.
- 3 Member States shall provide that the supervisory authority may establish a list of the processing operations which are subject to prior consultation pursuant to paragraph 1.
- 4 Member States shall provide for the controller to provide the supervisory authority with the data protection impact assessment pursuant to Article 27 and, on request, with any other information to allow the supervisory authority to make an assessment of the compliance of the processing and in particular of the risks for the protection of personal data of the data subject and of the related safeguards.
- 5 Member States shall, where the supervisory authority is of the opinion that the intended processing referred to in paragraph 1 of this Article would infringe the provisions adopted pursuant to this Directive, in particular where the controller has insufficiently identified or mitigated the risk, provide for the supervisory authority to provide, within a period of up to six weeks of receipt of the request for consultation, written advice to the controller and, where applicable, to the processor, and may use any of its powers referred to in Article 47. That period may be extended by a month, taking into account the complexity of the intended processing. The supervisory authority shall inform the controller and, where applicable, the processor of

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any such extension within one month of receipt of the request for consultation, together with the reasons for the delay.