

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 I*

### **General provisions**

#### *Article 1*

#### **Subject-matter and objectives**

- 1 This Directive lays down the rules relating to 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, including the safeguarding against and the prevention of threats to public security.
- 2 In accordance with this Directive, Member States shall:
  - a protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data; and
  - b ensure that the exchange of personal data by competent authorities within the Union, where such exchange is required by Union or Member State law, is neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data.
- 3 This Directive shall not preclude Member States from providing higher safeguards than those established in this Directive for the protection of the rights and freedoms of the data subject with regard to the processing of personal data by competent authorities.

#### *Article 2*

#### **Scope**

- 1 This Directive applies to the processing of personal data by competent authorities for the purposes set out in Article 1(1).
- 2 This Directive applies to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.
- 3 This Directive does not apply to the processing of personal data:
  - a in the course of an activity which falls outside the scope of Union law;
  - b by the Union institutions, bodies, offices and agencies.

### Article 3

#### Definitions

For the purposes of this Directive:

- (1) ‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- (2) ‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (3) ‘restriction of processing’ means the marking of stored personal data with the aim of limiting their processing in the future;
- (4) ‘profiling’ means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
- (5) ‘pseudonymisation’ means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;
- (6) ‘filing system’ means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- (7) ‘competent authority’ means:
  - (a) any public authority competent for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security; or
  - (b) any other body or entity entrusted by Member State law to exercise public authority and public powers for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
- (8) ‘controller’ means the competent authority which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State

- law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- (9) ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- (10) ‘recipient’ means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;
- (11) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- (12) ‘genetic data’ means personal data, relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;
- (13) ‘biometric data’ means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;
- (14) ‘data concerning health’ means personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;
- (15) ‘supervisory authority’ means an independent public authority which is established by a Member State pursuant to Article 41;
- (16) ‘international organisation’ means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.