

03 LEGITIMATE INTEREST

What is needed?

It seems reasonably clear that, if businesses or other organisations wish to use personal data, any such use should be based on consent, necessity or a legal obligation. However, there may be cases data processing is appropriate, but does not correspond to these criteria. In these cases, the 'legitimate interest' of the organisation that is processing the data may serve as a basis for data processing.

However, such cases should be an exception rather than a rule. We therefore need such exceptional cases to be clearly defined and limited to circumstances that are predictable, well-regulated and sufficiently narrow. By doing so, "legitimate interest" will not become a "loophole" that undermines the credibility of the legislation and the trust of citizens. In particular, the legislation needs to prohibit data from being used for purposes that are not related to the original purpose of collection.

negative amendments

The negative amendments on this issue seek to broaden further the scope of the Commission's proposal on this subject by explicitly extending the scope to include third parties (i.e. allowing third parties, possibly companies that a person has never been in contact with, to process data if such processing is in their interest). Furthermore, some amendments allow the processing of the data for purposes that are not compatible with the original purpose for which the data were collected. If the Regulation were to permit companies that a person had never heard of before to process data for reasons that the person was not aware of, it would eliminate most of the value of the regulation for the citizen. Amendment 890 from a group of EPP MEPs even suggests that personal data can be freely data mined and further processed on the sole basis that the data are online – regardless of

whether the personal data are legally online or not.

ALDE: 873, 880, 887, 888, 895, 896, 897, 899, 904, 943, 948, 949.

EPP: 882, 883, 890, 898, 900, 901, 945.

ECR: 891, 892, 893, 894 - Independent: 947

positive amendments

Some amendments aim to (with varying degrees of success) clarify the scope of the "legitimate interest" exception and to minimise or eliminate the use of data for purposes that are incompatible with the original purpose of the data collection.

S&D: 872, 875, 885, 940, 941 - ALDE: 879, 939 - GUE/NGL: 881, 942 - Greens: 100

LAW ENFORCEMENT ACCESS

It is crucial that the "legitimate interest" exception not be used as a justification for permitting foreign law enforcement authorities to circumvent democratically agreed data access procedures. There is a clear legal basis for law enforcement access to data in Article 6.1.c of the Regulation. Consequently, there is

no justification for the use of the "legitimate interest" exception for providing access to personal data for this purpose. It should be clear that this legal ground cannot be used to comply with access requests, except where those meet the requirements laid down in article 6.3.