Article 26
Processor

1. Where ~~a~~ processing ~~*operation*~~ is to be carried out on behalf of a controller, the controller shall choose a processor providing sufficient guarantees to implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject, in particular in respect of the technical security measures and organizational measures governing the processing to be carried out and shall ensure compliance with those measures.

2. The carrying out of processing by a processor shall be governed by a contract or other legal act binding the processor to the controller**.** ~~*and stipulating in particular that*~~ ***The controller and the processor shall be free to determine respective roles and tasks with respect to the requirements of this Regulation, and shall provide that*** the processor shall:

(a) ~~*act*~~ ***process personal data*** only on instructions from the controller, ~~***in particular,***~~ ~~***where the transfer of the personal data used is prohibited***~~ ***unless otherwise required by Union law or Member State law***;

(b) employ only staff who have committed themselves to confidentiality or are under a statutory obligation of confidentiality;

(c) take all required measures pursuant to Article 30;

(d) ***determine the conditions for*** enlist***ing*** another processor only with the prior permission of the controller**, *unless otherwise determined***.

(e) insofar as this is possible given the nature of the processing, create in agreement with the controller the ~~***necessary***~~ ***appropriate and relevant*** technical and organisational requirements for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;

(f) assist the controller in ensuring compliance with the obligations pursuant to Articles 30 to 34**, *taking into account the nature of processing and the information available to the processor***;

(g) ***return*** ~~***hand over***~~ all results to the controller after the end of the processing*, **and*** not process the personal data otherwise ***and delete existing copies unless Union or Member State law requires storage of the data***;

(h) make available to the controller ~~*and the supervisory authority*~~ all information necessary to ***demonstrate*** ~~*control*~~ compliance with the obligations laid down in this Article ***and allow on-site inspections***;

3. The controller and the processor shall document in writing the controller's instructions and the processor's obligations referred to in paragraph 2.

3a. The sufficient guarantees referred to in paragraph 1 may be demonstrated by adherence to codes of conduct or certification mechanisms pursuant to Articles 38 or 39 of this Regulation.

4. If a processor processes personal data other than as instructed by the controller ***or becomes the determining party in relation to the purposes and means of data processing***, the processor shall be considered to be a controller in respect of that processing and shall be subject to the rules on joint controllers laid down in Article 24.

~~*5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the responsibilities, duties and tasks in relation to a processor in line with paragraph 1, and conditions which allow facilitating the processing of personal data within a group of undertakings, in particular for the purposes of control and reporting.*~~