

Draft Amendment – Article 9 GDPR (Special Categories of Personal Data)

Proposed new point (l) in Article 9(2) GDPR

“(j) processing is necessary for purposes that demonstrably create, or have the potential to create, significant societal benefits, provided that such processing is subject to appropriate safeguards for the rights and freedoms of the data subject.”

Proposed new paragraph 3a in Article 9 GDPR

“3a. Point (l) of paragraph 2 shall only apply where the processing of special categories of personal data is necessary to pursue one or more of the following purposes with the potential to create significant societal benefit, and where such purpose cannot reasonably be achieved by less intrusive means:

- (a)** traffic safety, road safety, transport safety and accident prevention, including the development, operation, maintenance and improvement of connected vehicles, automated driving systems and mobility services;
- (b)** public health, epidemiological monitoring, preparedness and response to health threats;
- (c)** environmental protection, climate-related monitoring, emissions reduction, energy efficiency and sustainability objectives;
- (d)** cybersecurity, detection and remediation of vulnerabilities, and resilience of critical infrastructure and systems;
- (e)** other purposes recognised under Union or Member State law as serving significant societal interests, subject to appropriate safeguards.”

Proposed new paragraph 3b in Article 9 GDPR

“3b. Processing pursuant to paragraph 2(l) shall be subject to appropriate and specific measures to safeguard the fundamental rights and interests of the data subject, including, where relevant:

- (a)** data minimisation, purpose limitation and storage limitation;
- (b)** technical and organisational measures ensuring a high level of security;
- (c)** where appropriate, anonymisation, aggregation or pseudonymisation;
- (e)** oversight or additional safeguards as provided for in Union or Member State law.”

Proposed new paragraph 3c in Article 9 GDPR

“3c. The Commission may adopt implementing acts specifying categories of processing operations that qualify as pursuing significant societal benefits under paragraph 2(l) and 3a.”

Draft Recital – Amendment to Article 9 GDPR

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The processing of special categories of personal data under Regulation (EU) 2016/679 is subject to particularly strict conditions in order to protect fundamental rights and freedoms. However, a strictly consent-based or prohibition-oriented approach may, in certain limited and clearly defined circumstances, prevent the development and deployment of data-driven solutions that demonstrably create, or have the potential to create, significant societal benefits.

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Such societal benefits may arise, inter alia, in areas such as traffic and road safety, public health and epidemiological monitoring, environmental protection and climate objectives, cybersecurity and the resilience of critical infrastructure, as well as innovation of broad societal relevance. In these contexts, the processing of special categories of personal data may be strictly necessary to achieve objectives of high public interest that cannot reasonably be attained by less intrusive means.

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In order to ensure a proportionate balance between the protection of personal data and other fundamental rights and interests, this Regulation should allow, under clearly defined conditions, the processing of special categories of personal data where such processing is strictly necessary for purposes that serve significant societal benefits, provided that appropriate and specific safeguards are applied to protect the rights and freedoms of data subjects.

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Such safeguards should include, where appropriate, data minimisation, purpose limitation, storage limitation, strong technical and organisational security measures, and, where feasible, anonymisation, aggregation or pseudonymisation. Processing under this Regulation should remain subject to effective oversight and accountability, ensuring that societal benefit-oriented processing does not result in disproportionate interference with the fundamental rights of individuals.

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In order to ensure a consistent and proportionate application of this Regulation across the Union, and to provide legal certainty for controllers and data subjects alike, it is

appropriate to empower the Commission to adopt implementing acts specifying categories of processing operations that may qualify as pursuing significant societal benefits within the meaning of Article 9(2)(j).

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Such implementing acts should serve to clarify, in a transparent and dynamic manner, which types of processing operations are considered to demonstrably create, or have the potential to create, significant societal benefits, taking into account technological developments, evolving societal needs and scientific evidence, while ensuring a high level of protection for fundamental rights and freedoms.

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In adopting such implementing acts, the Commission should specify minimum safeguards and conditions applicable to the relevant processing operations, including requirements relating to necessity, proportionality, data minimisation, security measures and accountability, in order to ensure that the processing of special categories of personal data remains strictly limited to what is necessary to achieve the societal benefit pursued.

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The adoption of implementing acts pursuant to this Regulation should be subject to appropriate procedural safeguards, including consultation of relevant stakeholders and, where appropriate, the European Data Protection Board, to ensure coherence with this Regulation and with other Union law, and to prevent disproportionate interference with the rights of data subjects.

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This approach allows for a balanced and future-proof framework that preserves the core principles of data protection, avoids legal fragmentation across Member States, and enables the responsible use of data for objectives of high societal relevance under clearly defined and democratically accountable conditions.