

## *CHAPTER I*

### *第一章*

#### *General provisions*

##### *總則*

###### *Article 1*

###### *第 1 條*

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

##### **主旨與立法目的**

1. This Regulation lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data.

1. 為規範關於保護個人資料處理與資料自由流通，特制定本規則。

2. This Regulation protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.

2. 本規則保護個人基本權與自由，尤其是保護個人資料之權利。

3. The free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data.

3. 個人資料於歐盟境內之自由流通，不得以保護個人資料處理有關理由限制或禁止之。

###### *Article 2*

###### *第 2 條*

#### **Material scope**

##### **實體適用範圍**

1. This Regulation 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.

1. 本規則適用於全部或一部以自動化方式處理之個人資料，且適用於其他非自動化方式處理而構成檔案系統之一部分或旨在構成檔案系統之一部分的個人資料。

2. This Regulation does not apply to the processing of personal data:

2. 下列個人資料處理，不適用本規則：

(a) in the course of an activity which falls outside the scope of Union law;

(a) 於歐盟法外治權領域之活動；

(b) by the Member States when carrying out activities which fall within the scope of Chapter 2 of Title V of the TEU;

(b) 由會員國所進行屬於歐盟條約第二章第 5 節範圍內之活動；

(c) by a natural person in the course of a purely personal or household activity;

(c) 當事人所為單純之個人或家庭活動；

(d) 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.

(d) 主管機關為達預防、調查、偵查或追訴刑事犯罪或執行刑罰之目的（包括為維護及預防對於公共安全造成之威脅）所為之個人資料處理。

3. For the processing of personal data by the Union institutions, bodies, offices and agencies, Regulation (EC) No 45/2001 applies. Regulation

(EC) No 45/2001 and other Union legal acts applicable to such processing of personal data shall be adapted to the principles and rules of this Regulation in accordance with Article 98.

3. 歐盟規則第 45/2001 號適用於歐盟當局、機構、辦事處及局處所為之個人資料處理。歐盟規則第 45/2001 號及其他涉及個人資料處理之歐盟法案應依本規則第 98 條規定，按本規則之原則與規定調整修正之。

4. This Regulation shall be without prejudice to the application of Directive 2000/31/EC, in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.

4. 本規則不得影響歐盟指令第 2000/31/EC 號之適用，特別是中介服務商依該指令第 12 至 15 條規定所負之義務。

### *Article 3*

### 第 3 條

## **Territorial scope**

### **領土適用範圍**

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.

1. 本規則適用於控管者或處理者在歐盟境內之分支機構所為之個人資料處理活動，不問該處理是否發生於歐盟境內。

2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:

2. 本規則適用於由非設立於歐盟境內之控管者或處理者對於歐盟境內之資料主體所為涉及如下事項之個人資料處理：

(a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or

(a) 對歐盟境內之資料主體提供商品或服務，不問是否需要資料主體付款；

(b) the monitoring of their behaviour as far as their behaviour takes place within the Union.

(b) 對於資料主體於歐盟內所為行為之監控。

3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.

3. 本規則適用於由非設立於歐盟境內之控管者，但在會員國法律依國際公法可得適用領域內所為之個人資料處理。

#### *Article 4*

#### 第 4 條

### **Definitions**

#### 定義

For the purposes of this Regulation:

為本規則之目的：

(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;

(1) 「個人資料」係指有關識別或可得識別自然人（「資料主體」）之任何資訊；可得識別自然人係指得以直接或間接地識別該自然人，

特別是參考諸如姓名、身分證統一編號、位置資料、網路識別碼或一個或多個該自然人之身體、生理、基因、心理、經濟、文化或社會認同等具體因素之識別工具。

(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;

(2) 「處理」係指對個人資料或個人資料檔案執行任何操作或系列操作，不問是否透過自動化方式，例如收集、記錄、組織、結構化、儲存、改編或變更、檢索、查閱、使用、傳輸揭露、傳播或以其他方式使之得以調整或組合、限制、刪除或銷毀。

(3) ‘restriction of processing’ means the marking of stored personal data with the aim of limiting their processing in the future;

(3) 「處理限制」係指對於已儲存之個人資料進行標記，以限制其未來之處理。

(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;

(4) 「建檔」係指對個人資料任何形式之自動化處理，包括使用個人資料來評估與該當事人有關之個人特徵，特別是用來分析或預測有關當事人之工作表現、經濟狀況、健康、個人偏好、興趣、可信度、行為、地點或動向等特徵；

(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;

(5) 「假名化」係指處理個人資料之方式，使該個人資料在不使用額外資訊時，不再能夠識別出特定之資料主體，且該額外資料已被分開存放，並以技術及組織措施確保該個人資料無法或無可識別出當事人。

(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;

(6) 「檔案系統」係指依據特定標準可接近使用之個人資料所建構之任何檔案，不問是集中式、分散式或依功能性或地域性分散式之檔案。

(7) ‘controller’ means the natural or legal person, public authority, agency or other body 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;

(7) 「控管者」係指單獨或與他人共同決定個人資料處理之目的與方法之自然人或法人、公務機關、局處或其他機構；依照歐盟法或會員國法決定處理之目的及方法，由歐盟法或會員國法律規定控管者或其認定之具體標準；

(8) ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

(8) 「處理者」係指代控管者處理個人資料之自然人或法人、公務機關、局處或其他機構；

(9) ‘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 Union or 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;

(9) 「接收者」係指個人資料被向其揭露之自然人或法人、公務機關、局處或其他機構，不問其是否為第三人。但依據歐盟法或會員國法律，在特定調查框架內可能接收個人資料之公務機關不應視為接收者；該等公務機關所為資料之處理，應依照其處理目的，遵守其所適用之資料保護規則；

(10) ‘third party’ means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;

(10) 「第三人」係指資料主體、控管者、處理者及在控管者或處理者直接授權下被授權處理個人資料之人以外之自然人或法人、公務機關、局處或其他機構；

(11) ‘consent’ of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

(11) 資料主體之「同意」係指資料主體基於其意思，透過聲明或明確肯定之行動，所為自主性、具體、知情及明確之表示同意處理與其有關之個人資料；

(12) ‘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) 「個人資料侵害」係指違反安全性導致傳輸、儲存或以其他方式處理之個人資料遭意外或非法破壞、遺失、變更、未獲授權之揭露

或接近使用；

(13) ‘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) 「基因資料」係指涉及當事人遺傳性或突變性之基因特徵之個人資料，尤其是經由當事人生物樣本分析後所取得關於該當事人獨特之生理或健康資訊；

(14) ‘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) 「生物特徵識別資訊」係指透過特定技術處理所得關於當事人身體、生理或行為特徵而允許或確認其特定識別性之個人資料，例如臉部圖像或診斷資料；

(15) ‘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) 「涉及健康之資料」係指與當事人之身體或精神健康有關之個人資料，包括提供揭示其健康狀況之醫療照顧服務；

(16) ‘main establishment’ means:

(16) 「主要分支機構」係指：

(a) as regards a controller with establishments in more than one Member State, the place of its central administration in the Union, unless the decisions on the purposes and means of the processing of personal data are taken in another establishment of the controller in the Union and the latter establishment has the power to have such decisions implemented, in



which case the establishment having taken such decisions is to be considered to be the main establishment;

(a) 於一個以上會員國內成立分支機構之控管者，其於歐盟境內核心管理機構之所在地，但個人資料處理的目的及方式係由控管者於歐盟境內另一分支機構所決定，且後者有權使其所為決定予以執行者，於此情形，作成該等決定之分支機構應被視為主要分支機構；

(b) as regards a processor with establishments in more than one Member State, the place of its central administration in the Union, or, if the processor has no central administration in the Union, the establishment of the processor in the Union where the main processing activities in the context of the activities of an establishment of the processor take place to the extent that the processor is subject to specific obligations under this Regulation;

(b) 於一個以上會員國內成立分支機構之處理者，其於歐盟境內核心管理機構之所在地，或如其於歐盟境內並無核心管理機構時，歐盟為該處理者之分支機構之主要處理活動所在地，且該等活動使其須遵守本規則所規定之具體義務之處理者之分支機構；

(17) ‘representative’ means a natural or legal person established in the Union who, designated by the controller or processor in writing pursuant to Article 27, represents the controller or processor with regard to their respective obligations under this Regulation;

(17) 「代表」係指控管者或處理者依據第 27 條規定書面指定在歐盟境內之自然人或法人，而代表控管者或處理者依本規則各自所負之義務；

(18) ‘enterprise’ means a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity;

(18) 「企業」係指從事經濟活動之自然人或法人，不問其法律形式，包括經常性從事經濟活動之合夥或組織；

(19) ‘group of undertakings’ means a controlling undertaking and its

controlled undertakings;

(19) 「企業集團」係指控制企業及其從屬企業；

(20) ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;

(20) 「有拘束力之企業守則」係指會員國境內成立之控管者或處理者，在企業集團內或從事於共同經濟活動之企業集團間，為移轉或一系列移轉個人資料至一個或多個成立於第三國之控管者或處理者所應遵守之個人資料保護政策；

(21) ‘supervisory authority’ means an independent public authority which is established by a Member State pursuant to Article 51;

(21) 「監管機關」係指會員國依第 51 條規定成立之獨立公務機關；

(22) ‘supervisory authority concerned’ means a supervisory authority which is concerned by the processing of personal data because:

(22) 「相關監管機關」係指因下列事由涉及之個人資料處理之監管機關：

(a) the controller or processor is established on the territory of the Member State of that supervisory authority;

(a) 控管者或處理者係在該監管機關會員國境內成立；

(b) data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the processing; or

(b) 資料主體居住於該監管機關會員國境內，且受處理之實質影響或可能受到實質影響者；或

(c) a complaint has been lodged with that supervisory authority;

(c) 已向該監管機關提出申訴者；

(23) ‘cross-border processing’ means either:

(23) 「跨境處理」係指：

(a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or

(a) 歐盟境內之控管者或處理者在一個以上之會員國境內成立，而在一個以上之會員國之分支機構之活動過程中處理個人資料；或

(b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State.

(b) 歐盟境內之控管者或處理者之單一分支機構之活動過程中處理個人資料，但實質影響或可能實質影響到居住於一個以上會員國之資料主體；

(24) ‘relevant and reasoned objection’ means an objection to a draft decision as to whether there is an infringement of this Regulation, or whether envisaged action in relation to the controller or processor complies with this Regulation, which clearly demonstrates the significance of the risks posed by the draft decision as regards the fundamental rights and freedoms of data subjects and, where applicable, the free flow of personal data within the Union;

(24) 「相關且合理之異議」係指對於裁決草案關於是否有違反本規則之行為、或控管者與處理者有關之預設性行動是否符合本規則之判斷所為之異議，且該異議清楚證明裁決草案對於資料主體之基本權及自由及個人資料在歐盟境內自由流通（如適用）造成重大風險；

(25) ‘information society service’ means a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council (1);

(25) 「資訊社會服務」係指歐洲議會及歐盟理事會<sup>(1)</sup>所定歐盟指令第 2015/1535 號第 1 條第 1 項第 b 點所定義之服務；

(26) ‘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.

(26) 「國際組織」係指受國際公法管轄之組織及其附屬機構或依據兩個或多個國家所定協議成立或以此為基礎所成立之任何其他機構。

## *CHAPTER II*

### *第二章*

### *Principles*

#### *原則*

#### *Article 5*

#### *第 5 條*

### **Principles relating to processing of personal data**

#### **個人資料處理原則**

1. Personal data shall be:

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<sup>1</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

歐洲議會及歐盟理事會於 2015 年 9 月 9 日為資訊社會服務規則領域及技術規則領域提供資訊之程序規定制定歐盟指令第 2015/5135 號(官方公報 L 類第 251 號, 2015 年 9 月 17 日, 第 1 頁)。

1. 個人資料應：

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’);

(a) 為資料主體為合法、公正及透明之處理（「合法性、公正性及透明度」）；

(b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes (‘purpose limitation’);

(b) 蒐集目的須特定、明確及合法，且不得為該等目的以外之進階處理；依照第 89 條第 1 項規定，為達成公共利益之目的、科學或歷史研究目的或統計目的所為之進階處理，不應視為不符合原始目的（「目的限制」）；

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’);

(c) 適當、相關且限於處理目的所必要者（「資料最少蒐集原則」）；

(d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (‘accuracy’);

(d) 正確且必要時應隨時更新；考慮個人資料處理之目的，應採取一切合理措施，確保不正確之個人資料立即被刪除或更正（「正確性」）；

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in

accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');

(e) 資料主體之識別資料保存於一定形式，不長於處理目的所必要之期間；個人資料處理係單獨為達成公共利益之目的、科學或歷史研究目的或統計目的，且符合第 89 條第 1 項規定，實施適當之技術上及組織上之措施以確保資料主體權利及自由之要求者，該個人資料得被儲存較長時間（「儲存限制」）；

(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

(f) 處理應以確保個人資料適當安全性之方式為之，包括使用適當之技術上或組織上之措施，以防止未經授權或非法處理，並防止意外遺失、破壞或損壞（「完整性和保密性」）。

2. The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability').

2. 控管者應遵守並就其符合第 1 項規定負舉證責任（「責任」）。

## *Article 6*

### 第 6 條

#### **Lawfulness of processing**

#### 處理之合法性

1. Processing shall be lawful only if and to the extent that at least one of the following applies:

1. 合法之處理應至少符合下列要件之一：

(a) the data subject has given consent to the processing of his or her

personal data for one or more specific purposes;

(a) 資料主體同意為一個或多個特定目的處理其個人資料；

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(b) 處理係為向身為契約當事人之資料主體履行契約所必須者，或在締約前，應資料主體之要求，所必須採取之步驟；

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(c) 處理係控管者為遵守法律義務所必須者；

(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

(d) 處理係為保護資料主體或他人重大利益所必須者；

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

(e) 處理係為符合公共利益執行職務或委託控管者行使公權力所必須者；

(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

(f) 處理係控管者或第三者為追求正當利益之目的所必須者，但該資料保護之資料主體之利益或基本權與自由優先於該等利益，特別是該資料主體為兒童時，不適用之；

Point (f) of the first subparagraph shall not apply to processing carried out

by public authorities in the performance of their tasks.

第 1 款第 f 點不適用於公務機關執行其任務時所為之處理。

2. Member States may maintain or introduce more specific provisions to adapt the application of the rules of this Regulation with regard to processing for compliance with points (c) and (e) of paragraph 1 by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing including for other specific processing situations as provided for in Chapter IX.

2. 會員國得維持或採用更具體之規範，使其與本規則所定本條第 1 項第 c 點及第 e 點之適用相符，為處理及用以確保處理合法性與公正性之其他措施，包括為第九章所規定之其他特定處理情形，訂定更具體化之特定規範。

3. The basis for the processing referred to in point (c) and (e) of paragraph 1 shall be laid down by:

3. 第 1 項第 c 點及第 e 點所定處理之依據應為：

(a) Union law; or

(a) 歐盟法；或

(b) Member State law to which the controller is subject.

(b) 控管者受拘束之會員國法律。

The purpose of the processing shall be determined in that legal basis or, as regards the processing referred to in point (e) of paragraph 1, shall be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. That legal basis may contain specific provisions to adapt the application of rules of this Regulation, inter alia: the general conditions governing the lawfulness of processing by the controller; the types of data which are subject to the processing; the data subjects concerned; the entities to, and the purposes for which, the personal data may be disclosed; the purpose



limitation; storage periods; and processing operations and processing procedures, including measures to ensure lawful and fair processing such as those for other specific processing situations as provided for in Chapter IX. The Union or the Member State law shall meet an objective of public interest and be proportionate to the legitimate aim pursued.

處理之目的應在該法律依據上被確立，或如第 1 項第 e 點所定之處理，應為符合公共利益執行職務或委託控管者行使公權力所必須者。該法律依據可能包含與本規則規定適用相符之具體規範，包括但不限於：規範控管者之個人資料處理合法性的一般條款；處理所涉及之個人資料之類型；相關資料主體；得向其揭露個人資料之主體及其目的；目的限制；儲存期間；及處理方式與處理程序，包括例如第九章所規定之其他特定處理情形，用以確保處理合法性與公正性之其他措施。歐盟法或會員國法律應符合公共利益之目標，並應與所追求之正當目標相適當。

4. Where the processing for a purpose other than that for which the personal data have been collected is not based on the data subject's consent or on a Union or Member State law which constitutes a necessary and proportionate measure in a democratic society to safeguard the objectives referred to in Article 23(1), the controller shall, in order to ascertain whether processing for another purpose is compatible with the purpose for which the personal data are initially collected, take into account, *inter alia*:

4. 如處理係出於蒐集個人資料目的以外之目的且非基於資料主體同意，或非依據歐盟法或會員國法律在民主社會中為確保第 23 條第 1 項所定目的構成必要且適當方法所為時，控管者為確保處理之目的與原先蒐集個人資料之目的相互兼容應考慮包括但不限於下列事項：

(a) any link between the purposes for which the personal data have been collected and the purposes of the intended further processing;

(a) 蒐集個人資料之目的與所欲進階處理目的間之任何連結性；

(b) the context in which the personal data have been collected, in particular regarding the relationship between data subjects and the

controller;

(b) 蒐集個人資料之背景，尤其是資料主體與控管者間之關係；

(c) the nature of the personal data, in particular whether special categories of personal data are processed, pursuant to Article 9, or whether personal data related to criminal convictions and offences are processed, pursuant to Article 10;

(c) 個人資料之本身性質，尤其是依據第 9 條特殊類型之個人資料處理，或依據第 10 條涉及前科及犯罪有關之個人資料處理；

(d) the possible consequences of the intended further processing for data subjects;

(d) 所欲進階處理對於資料主體造成之可能後果；

(e) the existence of appropriate safeguards, which may include encryption or pseudonymisation.

(e) 適當保護措施之存在，可能包括加密或假名化。

## *Article 7*

### *第七條*

## **Conditions for consent**

### **同意條件**

1. Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.

1. 當處理係基於同意時，控管者應證明資料主體已同意其個人資料之處理。

2. If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the

other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of this Regulation shall not be binding.

2. 如資料主體之同意併係為其他事件所為之書面聲明時，同意請求應以易懂且方便取得之格式，並採用清楚簡易之語言，且與其他事件清楚區分方式呈現。該聲明之任何條款違反本規則者，不具約束力。

3. The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as to give consent.

3. 資料主體有權隨時撤回其同意。同意之撤回不影響撤回前基於該同意所為處理之合法性。資料主體為同意前，資料主體應受告知其得隨時撤回該同意。同意之撤回應與給予同意一樣容易。

4. When assessing whether consent is freely given, utmost account shall be taken of whether, *inter alia*, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

4. 在評估同意之給予是否具自主性時，應特別考慮，包括但不限於，契約之履行（包括服務之提供）依存於個人資料處理之同意，且處理個人資料非履行契約所必要者。

## Article 8

### 第 8 條

#### **Conditions applicable to child's consent in relation to information society services**

#### **涉及資訊社會服務適用兒童同意之條件**

1. Where point (a) of Article 6(1) applies, in relation to the offer of

information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.

1. 第 6 條第 1 項第 a 點適用於直接向兒童提供資訊社會服務之情況，如兒童年滿 16 歲，兒童之個人資料處理應屬合法。如該兒童未滿 16 歲，僅限於其法定代理人授權或同意之範圍內，該等處理始為合法。

Member States may provide by law for a lower age for those purposes provided that such lower age is not below 13 years.

會員國得以法律為該等目的規定較低年齡，惟不得低於 13 歲。

2. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

2. 在兒童之法定代理人授權或同意之情況，控管者應作出合理努力，在考量現有科技之情況下，確認該法定代理人之同意或授權。

3. Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.

3. 第 1 項規定不影響會員國之一般契約法，例如與兒童有關之契約之有效性、形成或效力之規定。

## *Article 9*

### *第 9 條*

## **Processing of special categories of personal data**

### 特殊類型之個人資料處理

1. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership,

and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.

1. 揭露種族或人種、政治意見、宗教或哲學信仰或貿易聯盟會員之個人資料、以及基因資料、用以識別自然人之生物特徵識別資料、與健康相關或與自然人之性生活或性傾向有關個人資料之處理，應予禁止。

2. Paragraph 1 shall not apply if one of the following applies:

2. 有下列情形之一者，不適用第 1 項規定：

(a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject;

(a) 除歐盟法或會員國法律規定資料主體不得排除第 1 項所定之禁止外，資料主體已明確同意為一個或多個特定目的處理上開個人資料；

(b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;

(b) 為履行義務及行使控管者特定權利之目的，或資料主體在歐盟法或會員國法或依據會員國法律所定適當保障資料主體之基本權及利益之團體協約所授權之勞動法及社會安全及社會保護法領域而有必要之處理；

(c) processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;

(c) 資料主體在身體上或法律上不能給予同意，而為保護資料主體或他人之重大利益所必要之處理；

(d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;

(d) 基金會、協會或任何其他非營利組織，基於政治、哲學、宗教或工會之目的，就其合法活動過程中所為之處理已做適當保護措施，且該處理僅涉及該組織之成員或其過去成員，或與該組織目的有關而定期接觸該組織之人，且該等資料未經資料主體之同意不會對外揭露者；

(e) processing relates to personal data which are manifestly made public by the data subject;

(e) 資料主體明顯已自行公開之個人資料之處理；

(f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;

(f) 為建構、行使或防禦法律上之請求或法院執行其司法權而有必要之處理；

(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

(g) 尊重資料保護之實質權利，並提供適當及具體之保護措施，以保護資料主體之基本權及利益，而基於歐盟法或會員國法律且與所追求目的合比例性之重大公共利益之理由所必要之處理；

(h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3;

(h) 依據歐盟法或會員國法律或基於與健康專業人員所定且受第 3 項要件及保護措施所拘束之契約，且為預防或職業醫學之目的、為評估僱員之工作能力、醫療診斷、為提供健康或社會照護或治療或為健康管理或社會照護系統及服務而有必要之處理；

(i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;

(i) 處理係基於公共衛生領域之公共利益，例如為防止對於健康之跨境嚴重威脅或為確保醫療保健及醫療產品或醫療設備品質之高標準與安全性而有必要者，並依據歐盟法或會員國法律規定採取適當及具體安全措施保護資料主體之權利和自由，尤其是職業秘密；

(j) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

(j) 尊重資料保護之實質權利，並提供適當及具體之保護措施，以保護資料主體之基本權及利益，基於歐盟法或會員國法律所定第 89 條第 1 項規定且與所追求目的合比例性者，為追求公共利益、科學或歷

史研究目的或統計目的而有必要之處理；

3. Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies.

3. 當資料係由基於歐盟法或會員國法或國內主管機構所訂定之規則受職業秘密之義務所拘束之專業人員或其他人處理或由其負責處理時，為第2項第h點所定目的，得處理第1項所定之個人資料；

4. Member States may maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health.

4. 會員國得維持或採用進一步規定，包括但不限於關於基因資料、生物特徵識別資訊或與健康相關資訊之個人資料處理。

#### *Article 10*

#### *第 10 條*

### **Processing of personal data relating to criminal convictions and offences**

#### 涉及前科及犯罪之個人資料處理

Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects. Any comprehensive register of criminal convictions shall be kept only under the control of official authority.



依第 6 條第 1 項處理涉及前科及犯罪之個人資料或相關安全措施，僅有下列情形之一者，始得為之：於公務機關控制下所為之處理，或歐盟或會員國法已為資料主體之權利與自由規範適當保護措施而授權之處理。任何全面性的前科紀錄僅限由公務機關控管保存。

## *Article 11*

### 第 11 條

#### **Processing which does not require identification**

#### **不須識別之處理**

1. If the purposes for which a controller processes personal data do not or do no longer require the identification of a data subject by the controller, the controller shall not be obliged to maintain, acquire or process additional information in order to identify the data subject for the sole purpose of complying with this Regulation.

1. 控管者處理個人資料之目的非為識別資料主體，或不再需要由控管者識別資料主體時，該控管者應無義務維護、取得或處理依照本規則以識別該資料主體為唯一目的之額外資訊。

2. Where, in cases referred to in paragraph 1 of this Article, the controller is able to demonstrate that it is not in a position to identify the data subject, the controller shall inform the data subject accordingly, if possible. In such cases, Articles 15 to 20 shall not apply except where the data subject, for the purpose of exercising his or her rights under those articles, provides additional information enabling his or her identification.

2. 本條第一項所定情形，如控管者得證明其非立於識別該資料主體之地位者，該控管者應於可能範圍內通知該資料主體。於此情形，第 15 條至第 20 條規定應不予適用，但資料主體依該等規定，為行使其權利之目的，提供得識別其身分之額外資訊者，不在此限。

## *CHAPTER III*

### 第三章

## *Rights of the data subject*

### *資料主體之權利*

#### Section 1

#### 第一節

### **Transparency and modalities**

#### **透明度及管道**

#### *Article 12*

#### 第 12 條

### **Transparent information, communication and modalities for the exercise of the rights of the data subject**

#### **資料主體為行使其權利之透明資訊、溝通及管道**

1. The controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

1. 控管者應採取適當措施，以簡明、透明、易懂且方便取得之格式，並採用清楚簡易之語言，提供第 13 條及第 14 條所定任何資訊及第 15 條至第 22 條及第 34 條所定關於對資料主體所為處理之任何溝通，特別是對於兒童之資訊。該資訊應以書面或其他方式提供，包括於適當情況下之電子格式。當資料主體提出要求，並以其他方式確認資料主體之身分者，得以口頭提供資訊。

2. The controller shall facilitate the exercise of data subject rights under

Articles 15 to 22. In the cases referred to in Article 11(2), the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject.

2. 控管者應促使資料主體依照第 15 條至第 22 條規定行使其權利。於第 11 條第 2 項規定之情形，該控管者不應拒絕資料主體基於第 15 條至第 22 條行使其權利之要求，但該控管者證明其無從識別該資料主體之地位者，不在此限。

3. The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

3. 控管者應向資料主體提供其依第 15 條至第 22 條提出之請求所欲採取行動之資訊，不得無故遲延，且無論如何，最遲應於收到請求後一個月內為之。考量到請求之複雜性及數量，該期限於必要時得再延長兩個月，控管者應於收到請求後一個月內通知資料主體該展期，並說明遲延之原因。資料主體以電子方式提出請求者，除資料主體另有要求者外，該資訊應盡可能以電子方式提供。

4. If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

4. 如控管者不同意資料主體之要求者，該控管者應立即且最遲於收到資料主體要求之一個月內附具理由告知該資料主體，並敘明向監管

機關提出申訴及尋求司法救濟之可能性。

5. Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either:

5. 第 13 條及第 14 條所定應提供之資訊及第 15 條至第 22 條及第 34 條所定任何溝通及採取之任何行動，應無償提供之。如資料主體之請求明顯無理由或過度者，尤其是基於該等請求過於重複者，控管者得：

(a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or

(a) 考量所要求提供之資訊或溝通或採取行動之行政成本，收取適當費用；或

(b) refuse to act on the request. The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

(b) 拒絕該請求。控管者應就該請求之明顯無理由或過度性負舉證責任。

6. Without prejudice to Article 11, where the controller has reasonable doubts concerning the identity of the natural person making the request referred to in Articles 15 to 21, the controller may request the provision of additional information necessary to confirm the identity of the data subject.

6. 在不影響第 11 條規定之情況下，如控管者對於當事人依照第 15 條至第 21 條提出請求之資料主體身分有合理懷疑者，控管者得要求提供為確認該資料主體身分所必要之額外資訊。

7. The information to be provided to data subjects pursuant to Articles 13

and 14 may be provided in combination with standardised icons in order to give in an easily visible, intelligible and clearly legible manner a meaningful overview of the intended processing. Where the icons are presented electronically they shall be machine-readable.

7. 依據第 13 條及第 14 條規定提供予資料主體之資訊，得以標準化之標誌方式提供，俾提供易見、易懂且清晰易讀之方式，並對於所欲為之處理進行有意義之概述。於標誌係以電子方式表示時，其須得由機器辨認之。

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 92 for the purpose of determining the information to be presented by the icons and the procedures for providing standardised icons.

8. 依照第 92 條規定，為決定該等圖示所呈現之資訊及提供標準化圖示之程序之目的，執委會應有權通過授權法。

## Section 2

### 第 2 節

#### **Information and access to personal data**

##### **個人資料之資訊與接近使用**

#### *Article 13*

### 第 13 條

#### **Information to be provided where personal data are collected from the data subject**

##### **蒐集資料主體之個人資料時所提供之資訊**

1. Where personal data relating to a data subject are collected from the data subject, the controller shall, at the time when personal data are obtained, provide the data subject with all of the following information:

1. 從資料主體蒐集其有關之個人資料時，控管者應於取得個人資料

時，提供資料主體下列所有資訊：

(a) the identity and the contact details of the controller and, where applicable, of the controller's representative;

(a) 控管者及其代表（如適用）之身分及聯繫方式；

(b) the contact details of the data protection officer, where applicable;

(b) 資料保護員（如適用）之聯繫方式；

(c) the purposes of the processing for which the personal data are intended as well as the legal basis for the processing;

(c) 所欲處理之個人資料之處理目的及該處理之法律依據；

(d) where the processing is based on point (f) of Article 6(1), the legitimate interests pursued by the controller or by a third party;

(d) 處理係依據第 6 條第 1 項第 f 點者，該控管者或第三人所追求之正當利益；

(e) the recipients or categories of recipients of the personal data, if any;

(e) 個人資料之接收者或接收者類型（如有）；

(f) where applicable, the fact that the controller intends to transfer personal data to a third country or international organisation and the existence or absence of an adequacy decision by the Commission, or in the case of transfers referred to in Article 46 or 47, or the second subparagraph of Article 49(1), reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available.

(f) 控管者欲將個人資料移轉至第三國或國際組織，及執委會是否提供充足保護之決定，或於第 46 條或第 47 條或第 49 條第 1 項第 2 款所定傳輸之情形者，告知合適或適當之保護措施及取得該副本或該副本可得取用之方式（如適用）。

2. In addition to the information referred to in paragraph 1, the controller

shall, at the time when personal data are obtained, provide the data subject with the following further information necessary to ensure fair and transparent processing:

2. 除第一項所定資訊外，控管者於取得個人資料時，應提供資料主體下列必要之進階資訊，以確保公平及透明之處理：

(a) the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period;

(a) 個人資料將被儲存之期間，或如告知期間不可能者，確定該期間所採用之標準；

(b) the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability;

(b) 向控管者請求接近使用及更正或刪除或限制處理或拒絕處理與資料主體相關個人資料之權利，以及資料可攜性之權利；

(c) where the processing is based on point (a) of Article 6(1) or point (a) of Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;

(c) 處理係依據第 6 條第 1 項第 a 點或第 9 條第 2 項第 a 點者，得隨時撤回其同意之權利，但不影響撤回前基於該同意所為處理之合法性；

(d) the right to lodge a complaint with a supervisory authority;

(d) 向監管機關提起申訴之權利；

(e) whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data;

(e) 個人資料之提供是否為法定或契約要求，或係訂立契約之必要要件，以及資料主體是否有義務提供個人資料以及未提供該資料可能產生之後果；

(f) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(f) 存在第 22 條第 1 項及第 4 項所定自動決策（包括建檔）者，至少在該等情況，為資料主體之處理所涉及的邏輯性有意義資訊，以及重要性與預設結果。

3. Where the controller intends to further process the personal data for a purpose other than that for which the personal data were collected, the controller shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information as referred to in paragraph 2.

3. 如控管者所欲進階處理個人資料之目的非基於蒐集該個人資料之目的者，控管者在進階處理前，應提供資料主體該其他目的之資訊及第 2 項所定之任何相關進階資訊。

4. Paragraphs 1, 2 and 3 shall not apply where and insofar as the data subject already has the information.

4. 第 1 項、第 2 項及第 3 項不適用於資料主體已有該資訊之內容及範圍。

#### *Article 14*

#### *第 14 條*

### **Information to be provided where personal data have not been obtained from the data subject**

#### **尚未自資料主體取得個人資料時所應提供之資訊**

1. Where personal data have not been obtained from the data subject, the



controller shall provide the data subject with the following information:

1. 尚未自資料主體取得個人資料時，控管者應提供資料主體下列資訊：

(a) the identity and the contact details of the controller and, where applicable, of the controller's representative;

(a) 控管者及其代表（如適用）之身分及聯繫方式；

(b) the contact details of the data protection officer, where applicable;

(b) 資料保護員（如適用）之聯繫方式；

(c) the purposes of the processing for which the personal data are intended as well as the legal basis for the processing;

(c) 所欲處理之個人資料之處理目的及該處理之法律依據；

(d) the categories of personal data concerned;

(d) 個人資料所涉及之類型；

(e) the recipients or categories of recipients of the personal data, if any;

(e) 個人資料之接收者或接收者類型（如有）；

(f) where applicable, that the controller intends to transfer personal data to a recipient in a third country or international organisation and the existence or absence of an adequacy decision by the Commission, or in the case of transfers referred to in Article 46 or 47, or the second subparagraph of Article 49(1), reference to the appropriate or suitable safeguards and the means to obtain a copy of them or where they have been made available.

(f) 控管者欲將個人資料移轉至第三國或國際組織，及執委會是否提供充足保護之決定，或於第 46 條或第 47 條或第 49 條第 1 項第 2 款所定傳輸之情形者，告知合適或適當之保護措施及取得該副本或該副本可得取用之方式（如適用）。

2. In addition to the information referred to in paragraph 1, the controller shall provide the data subject with the following information necessary to ensure fair and transparent processing in respect of the data subject:

2. 除第一項所定資訊外，控管者應提供資料主體下列必要之進階資訊，以確保對於資料主體為公平及透明之處理：

(a) the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period;

(a) 個人資料將被儲存之期間，或如告知期間不可能者，確定該期間所採用之標準；

(b) where the processing is based on point (f) of Article 6(1), the legitimate interests pursued by the controller or by a third party;

(b) 處理係依據第 6 條第 1 項第 f 點者，控管者或該第三人所追求之正當利益；

(c) the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject and to object to processing as well as the right to data portability;

(c) 向控管者請求接近使用及更正或刪除或限制處理或拒絕處理與資料主體相關個人資料之權利，以及資料可攜性之權利；

(d) where processing is based on point (a) of Article 6(1) or point (a) of Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;

(d) 處理係依據第 6 條第 1 項第 a 點或第 9 條第 2 項第 a 點者，得隨時撤回其同意之權利，但不影響撤回前基於該同意所為處理之合法性；

(e) the right to lodge a complaint with a supervisory authority;

(e) 向監管機關提起申訴之權利；

(f) from which source the personal data originate, and if applicable, whether it came from publicly accessible sources;

(f) 個人資料之來源為何，及其是否來自可公開接近使用之來源(如適用)；

(g) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(g) 存在第 22 條第 1 項及第 4 項所定自動決策（包括建檔）者，至少在該等情況，為資料主體之處理所涉及的邏輯性有意義資訊，以及重要性與預設結果。

3. The controller shall provide the information referred to in paragraphs 1 and 2:

3. 控管者應提供第 1 項及第 2 項所定資訊：

(a) within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed;

(a) 在取得個人資料後之合理期間內，但最遲應於一個月內為之，須顧及個人資料處理之具體情形；

(b) if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject; or

(b) 如個人資料欲用於與資料主體之溝通，最遲於與該資料主體第一次溝通時；或

(c) if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed.

(c) 如預設會揭露予其他接收者時，最遲應於第一次揭露該個人資料時；

4. Where the controller intends to further process the personal data for a purpose other than that for which the personal data were obtained, the controller shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information as referred to in paragraph 2.

4. 如控管者所欲進階處理個人資料之目的非基於取得該個人資料時之目的者，控管者在進階處理前，應提供資料主體該其他目的之資訊及第 2 項所定之任何相關進階資訊。

5. Paragraphs 1 to 4 shall not apply where and insofar as:

5. 第 1 項至第 4 項不適用於：

(a) the data subject already has the information;

(a) 資料主體已有的資訊；

(b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to the conditions and safeguards referred to in Article 89(1) or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available;

(b) 經證明不可能提供該等資訊或須花費過鉅之勞費，尤其是為了實現公共利益、科學或歷史研究目的或統計目的，且符合第 89 條第 1 項所定要件及保護措施，或本條第 1 項所定義務可能使該處理目標無法實現或嚴重損害其實現者。於此情形，控管者應採取適當保護措施以保護資料主體之權利及自由及正當利益，包括公開資訊；

(c) obtaining or disclosure is expressly laid down by Union or Member State law to which the controller is subject and which provides appropriate measures to protect the data subject's legitimate interests; or

(c) 取得或揭露係依據控管者所受拘束之歐盟法或會員國法律之明文，且歐盟法及會員國法律就保護資料主體合法利益之適當保護措施定有規範；或

(d) where the personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Member State law, including a statutory obligation of secrecy.

(d) 如依照歐盟法或會員國法律所定專業保密義務之規範（包括法定之保密義務），個人資料應予保密者。

### *Article 15*

### *第 15 條*

## **Right of access by the data subject**

### **資料主體之接近使用權**

1. The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:

1. 資料主體有權向控管者確認其個人資料是否正被處理，於此情形者，資料主體應有權接近使用其個人資料及下列資訊：

(a) the purposes of the processing;

(a) 處理之目的；

(b) the categories of personal data concerned;

(b) 個人資料所涉及之類型；

(c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;

(c) 已揭露或將予揭露之個人資料接收者或接收者類型，尤其是在第

三國境內或國際組織之接收者；

(d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;

(d) 如可能，個人資料將被儲存之預期期間，或如告知期間不可能者，確定該期間所採用之標準；

(e) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;

(e) 向控管者請求更正或刪除或限制處理或拒絕處理與資料主體相關個人資料之權利；

(f) the right to lodge a complaint with a supervisory authority;

(f) 向監管機關提起申訴之權利；

(g) where the personal data are not collected from the data subject, any available information as to their source;

(g) 個人資料非自資料主體蒐集所得者，關於該來源之任何充分資訊；

(h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(h) 存在第 22 條第 1 項及第 4 項所定自動決策（包括建檔）者，至少在該等情況，為資料主體之處理所涉及的邏輯性有意義資訊，以及重要性與預設結果。

2. Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards pursuant to Article 46 relating to the transfer.

2. 如個人資料移轉至第三國或至國際組織，該資料主體應有權獲知關於該傳輸依第 46 條所定之適當保護措施；

3. The controller shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.

3. 控管者應提供所在處理之個人資料副本乙份。資料主體所要求之任何更多副本，控管者得依行政成本收取合理費用。如資料主體係以電子方式提出請求，除資料主體有不同要求外，該資訊之提供亦應以電子方式為之。

4. The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.

4. 第 3 項所定取得副本之權利不應影響其他人之權利及自由。

## Section 3

### 第三節

#### **Rectification and erasure**

#### 更正及刪除

#### *Article 16*

#### 第 16 條

#### **Right to rectification**

#### 更正權

The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed,

including by means of providing a supplementary statement.

資料主體應有權使控管者更正其不正確之個人資料，不得無故拖延。考量到處理之目的，資料主體應有權完整化其有欠缺之個人資料，包括以提供補充說明之方式。

## *Article 17*

### 第 17 條

#### **Right to erasure ('right to be forgotten')**

#### 刪除權（「被遺忘權」）

1. The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

1. 有下列情事者，資料主體應有權使控管者刪除其個人資料，不得無故拖延，且控管者應有義務刪除該個人資料，不得無故拖延：

(a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;

(a) 個人資料對於蒐集或處理目的不再需要者；

(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;

(b) 處理係依據第 6 條第 1 項第 a 點或第 9 條第 2 項第 a 點者，資料主體撤回其同意，且該處理已無其他法律依據者；

(c) the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);

(c) 資料主體依第 21 條第 1 項規定對處理提出異議，且該處理無其他優先適用之法律依據者，或資料主體依第 21 條第 2 項規定對處理提



出異議者；

(d) the personal data have been unlawfully processed;

(d) 該個人資料遭違法處理者；

(e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;

(e) 控管者依其受拘束之歐盟法或會員國法律有義務應刪除個人資料者；

(f) the personal data have been collected in relation to the offer of information society services referred to in Article 8(1).

(f) 個人資料係依據第 8 條第 1 項所定為提供資訊社會服務所蒐集者。

2. Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

2. 如控管者已將該個人資料公開，且其有義務依據第 1 項規定刪除該個人資料者，考量現有科技及執行成本，該控管者應採取合理步驟，包括科技方式，通知正在處理該個人資料之控管者，資料主體已提出刪去任何該個人資料之連結或複製或仿製之請求。

3. Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:

3. 於下列情形者，不適用第 1 項及第 2 項規定：

(a) for exercising the right of freedom of expression and information;

- (a) 為行使表意自由及資訊權者；
- (b) for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (b) 依據控管者所應遵守之歐盟法或會員國法，遵守其法律義務、或符合公共利益之職務執行、或委託控管者行使公權力所必須者；
- (c) for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3);
- (c) 基於公共衛生領域上之公共利益，且符合第 9 條第 2 項第 h 點及第 i 點及第 9 條第 3 項規定者；
- (d) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
- (d) 為實現公共利益、科學或歷史研究目的或統計目的，且符合第 89 條第 1 項規定者，但以第 1 項所定權利實際上不可能或嚴重損害該處理目標之實現者為限；
- (e) for the establishment, exercise or defence of legal claims.
- (e) 為了建立、行使或防禦法律上之請求者。

## *Article 18*

### *第 18 條*

## **Right to restriction of processing**

### 限制處理權

1. The data subject shall have the right to obtain from the controller restriction of processing where one of the following applies:

1. 於下列情事者，資料主體應有權限制控管者之處理：

(a) the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data;

(a) 資料主體質疑其個人資料之正確性，而給予控管者驗證該個人資料正確性之期間；

(b) the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;

(b) 處理係違法的，且資料主體拒絕刪除該個人資料並要求限制其使用者；

(c) the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims;

(c) 控管者就其處理之目的不再需要該個人資料，但該個人資料為資料主體建立、行使或防禦法律上請求所必須者；

(d) the data subject has objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.

(d) 資料主體已依照第 21 條第 1 項拒絕該處理，而在等待確認控管者是否具有優先於資料主體權益之正當理由；

2. Where processing has been restricted under paragraph 1, such personal data shall, with the exception of storage, only be processed with the data subject's consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest of the Union or of a Member State.

2. 處理依據第一項被限制時，該個人資料，除儲存外，應僅限基於資料主體之同意、或為建立、行使或防禦法律上請求、或為保護他人或法人之權利、或基於歐盟法或會員國法律所定重要公共利益之理由，

始得處理。

3. A data subject who has obtained restriction of processing pursuant to paragraph 1 shall be informed by the controller before the restriction of processing is lifted.

3. 資料主體依第一項規定已限制處理者，控管者於取消處理限制前，應通知資料主體。

### *Article 19*

#### 第 19 條

### **Notification obligation regarding rectification or erasure of personal data or restriction of processing**

#### 關於更正或刪除個人資料或限制處理之通知義務

The controller shall communicate any rectification or erasure of personal data or restriction of processing carried out in accordance with Article 16, Article 17(1) and Article 18 to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

除經證明不可能為通知，或通知須花費過鉅之勞費者外，控管者應就第 16 條、第 17 條第 1 項及第 18 條所定之任何更正或刪除個人資料或限制處理向個人資料受揭露之各接收者為通知。控管者應依資料主體之要求向資料主體告知接收者。

### *Article 20*

#### 第 20 條

### **Right to data portability**

#### 資料可攜性權利

1. The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a

structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where:

1. 資料主體應有權以有結構的、通常使用的、機器可讀的形式，接收其提供予控管者之資料，並有權將之傳輸給其他控管者，而不受其提供個人資料之控管者之妨礙，如：

(a) the processing is based on consent pursuant to point (a) of Article 6(1) or point (a) of Article 9(2) or on a contract pursuant to point (b) of Article 6(1); and

(a) 處理係基於第 6 條第 1 項第 a 點或第 9 條第 2 項第 a 點之同意或係基於第 6 條第 1 項第 b 點契約所為之者；及

(b) the processing is carried out by automated means.

(b) 處理係以自動化方式為之者。

2. In exercising his or her right to data portability pursuant to paragraph 1, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.

2. 依據第一項行使其資料可攜性之權利者，如技術許可時，資料主體應有權使該個人資料由一控管者直接傳輸予其他控管者。

3. The exercise of the right referred to in paragraph 1 of this Article shall be without prejudice to Article 17. That right shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

3. 本條第一項所定權利之行使不得優先於第 17 條規定。該權利於符合公共利益執行職務或委託資料控管者行使公權力而有必要為之處理者，不適用之。

4. The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.

4. 第一項所定權利不得影響他人之權利與自由。

## Section 4

### 第 4 節

## **Right to object and automated individual decision-making**

### 拒絕權及個人化之自動決策

#### *Article 21*

#### 第 21 條

### **Right to object**

#### 拒絕權

1. The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on point (e) or (f) of Article 6(1), including profiling based on those provisions. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.

1. 資料主體應有權基於與其具體情況有關之理由，隨時拒絕依第 6 條第 1 項第 e 點或第 f 點規定所為有關其個人資料之處理，包括基於該等條款所為之建檔。控管者應不得再處理該個人資料，除非該控管者證明其處理有優先於資料主體權利及自由之法律依據、或為建立、行使或防禦法律上請求所為之者。

2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing.

2. 為直接行銷目的處理個人資料時，該資料主體有權隨時拒絕為行

銷目的所涉及其個人資料之處理，包括與該直接行銷有關範圍內之建檔。

3. Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.

3. 當資料主體拒絕為直接行銷目的而處理個人資料時，該個人資料不得再基於該目的而為處理。

4. At the latest at the time of the first communication with the data subject, the right referred to in paragraphs 1 and 2 shall be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information.

4. 最遲於與資料主體第一次溝通時，應明確提請資料主體注意第 1 項及第 2 項所定權利，且清楚表達並與其他訊息區別。

5. In the context of the use of information society services, and notwithstanding Directive 2002/58/EC, the data subject may exercise his or her right to object by automated means using technical specifications.

5. 在使用資訊社會服務之過程中，不問第 2002/58/EC 號指令規範為何，資料主體得行使其權利，拒絕使用技術規範之自動化方式。

6. Where personal data are processed for scientific or historical research purposes or statistical purposes pursuant to Article 89(1), the data subject, on grounds relating to his or her particular situation, shall have the right to object to processing of personal data concerning him or her, unless the processing is necessary for the performance of a task carried out for reasons of public interest.

6. 如個人資料之處理係依據第 89 條第 1 項規定為科學或歷史研究目的或統計目的所為者，資料主體應有權基於與其具體情況有關之理由，拒絕與其有關之個人資料之處理，除非該處理係基於符合公共利益之職務執行之理由而有必要者。

## *Article 22*

## 第 22 條

### **Automated individual decision-making, including profiling**

#### **個人化之自動決策，包括建檔**

1.The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

1. 資料主體應有權不受僅基於自動化處理（包括建檔）所做成而對其產生法律效果或類似之重大影響之決策所拘束。

2.Paragraph 1 shall not apply if the decision:

2. 第一項規定不予適用，如該決策：

(a) is necessary for entering into, or performance of, a contract between the data subject and a data controller;

(a) 係為締結或履行資料主體與控管者間之契約所必要者；

(b) is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or

(b) 係控管者受拘束之歐盟法或會員國法有明文授權，且定有適當之保護措施以確保資料主體之權利及自由及正當利益者；或

(c) is based on the data subject's explicit consent.

(c) 係基於資料主體之明確同意者。

3.In the cases referred to in points (a) and (c) of paragraph 2, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.



3. 在第 2 項所定第 a 點及第 c 點之情形，資料控管者應執行適當保護措施以確保資料主體之權利及自由及正當利益，至少有權對控管者部分為人為參與、表達意見以及挑戰該決策。

4. Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 9(1), unless point (a) or (g) of Article 9(2) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.

4. 除第 9 條第 2 項第 a 點或第 g 點所定情形外，第 2 項所定決策不得係基於第 9 條第 1 項所定之特殊類型之個人資料，且應實施適當保護措施以確保資料主體之權利及自由及正當利益。

## Section 5

### 第 5 節

## **Restrictions**

### 限制

## *Article 23*

### 第 23 條

## **Restrictions**

### 限制

1. Union or Member State law to which the data controller or processor is subject may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 12 to 22 and Article 34, as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

1. 資料控管者或處理者受拘束之歐盟法或會員國法得以立法程序限

制第 12 條至第 22 條及第 34 條以及第 5 條所定之權利與義務之範圍，但限於其立法符合第 12 條至第 22 條所定之權利與義務，且該限制尊重基本權及自由之本質，並於民主社會中係必要且適當措施以確保：

(a) national security;

(a) 國家安全；

(b) defence;

(b) 防禦；

(c) public security;

(c) 公共安全；

(d) 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;

(d) 預防、調查、偵查及追訴刑事犯罪或執行刑罰，包括為維護及預防對公共安全造成威脅者；

(e) other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;

(e) 歐盟或會員國之一般公共利益的其他重要宗旨，尤其是歐盟或會員國之重要經濟或金融利益，包括財政、預算及稅負、公共衛生及社會安全；

(f) the protection of judicial independence and judicial proceedings;

(f) 司法獨立性及司法程序之保障；

(g) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;

(g) 預防、調查、偵查及追訴違反特定職業之道德規範；

(h) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (e) and (g);

(h) 依第 a 至 e 點及第 g 點所定情事，公務機關行使其監督、檢查或監管功能，即使係不定期性者；

(i) the protection of the data subject or the rights and freedoms of others;

(i) 保護資料主體或他人之權利及自由之保障；

(j) the enforcement of civil law claims.

(j) 民事請求之執行。

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, as to:

2. 尤其是，第 1 項所定之任何合法措施於相關情況下，應至少包含下列各款具體規定：

(a) the purposes of the processing or categories of processing;

(a) 處理之目的或處理之類型；

(b) the categories of personal data;

(b) 個人資料之類別；

(c) the scope of the restrictions introduced;

(c) 採用限制之範圍；

(d) the safeguards to prevent abuse or unlawful access or transfer;

(d) 防止濫用或非法接近使用或移轉之保護措施；

(e) the specification of the controller or categories of controllers;

(e) 控管者之標準或控管者之類型；

(f) the storage periods and the applicable safeguards taking into account

the nature, scope and purposes of the processing or categories of processing;

(f) 儲存期間及考量到處理本質、範圍及目的之適當保護措施或處理類型；

(g) the risks to the rights and freedoms of data subjects; and

(g) 資料主體權利及自由之風險；及

(h) the right of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.

(h) 資料主體關於該限制之知悉權，但限制之目的得優先於該權利者除外。

## *CHAPTER IV*

### *第四章*

#### *Controller and processor*

#### *控管者及處理者*

#### *Section 1*

#### *第 1 節*

#### **General obligations**

#### *一般義務*

#### *Article 24*

#### *第 24 條*

#### **Responsibility of the controller**

#### *控管者之責任*

1. Taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the

rights and freedoms of natural persons, the controller shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this Regulation. Those measures shall be reviewed and updated where necessary.

1. 考量到處理之性質、範圍、內容及目的以及當事人之權利及自由所受之諸多可能且嚴重之風險，控管者應實施適當科技化且有組織的措施以確保並得證明其處理符合本規則規定。該等措施應得予審視，且必要時應予更新。

2. Where proportionate in relation to processing activities, the measures referred to in paragraph 1 shall include the implementation of appropriate data protection policies by the controller.

2. 與處理活動相適當之情況下，第 1 項所定措施應包括控管者適當資料保護政策之實施。

3. Adherence to approved codes of conduct as referred to in Article 40 or approved certification mechanisms as referred to in Article 42 may be used as an element by which to demonstrate compliance with the obligations of the controller.

3. 遵守第 40 條所定經批准之行為守則或第 42 條所定經核准之認證機制得作為控管者遵守其義務之證明。

## *Article 25*

### *第 25 條*

#### **Data protection by design and by default**

##### 設計及預設之資料保護

1. Taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, the controller shall, both at the time of

the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures, such as pseudonymisation, which are designed to implement data-protection principles, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing in order to meet the requirements of this Regulation and protect the rights of data subjects.

1. 考量到現有技術、執行成本以及處理之性質、範圍、內容及目的以及處理對當事人之權利及自由所生諸多可能且嚴重之風險，不問係在決定處理方式時或係在處理中，控管者均應實施適當之科技化且有組織的措施，例如假名化，且該等措施旨在實現資料保護原則，如資料最少蒐集原則，並採取有效方式且將必要保護措施納入處理程序，以符合本規則之要求並保護資料主體之權利。

2. The controller shall implement appropriate technical and organisational measures for ensuring that, by default, only personal data which are necessary for each specific purpose of the processing are processed. That obligation applies to the amount of personal data collected, the extent of their processing, the period of their storage and their accessibility. In particular, such measures shall ensure that by default personal data are not made accessible without the individual's intervention to an indefinite number of natural persons.

2. 控管者應實施適當之科技化且有組織的措施，以確保在預設情況下，僅處理一特定目的且必要限度範圍內之個人資料。該義務適用於所蒐集之個人資料之數量、處理之程度、儲存之期間及其可接近使用性。尤其是，該等措施於預設情況下，應確保個人資料不能經由人為干預而遭不特定人之接近使用。

3. An approved certification mechanism pursuant to Article 42 may be used as an element to demonstrate compliance with the requirements set out in paragraphs 1 and 2 of this Article.

3. 第 42 條所定經核准之認證機制得用以證明符合本條第 1 項及第 2 項所定之要求。

## Article 26

### 第 26 條

#### Joint controllers

#### 共同控管者

1. Where two or more controllers jointly determine the purposes and means of processing, they shall be joint controllers. They shall in a transparent manner determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the exercising of the rights of the data subject and their respective duties to provide the information referred to in Articles 13 and 14, by means of an arrangement between them unless, and in so far as, the respective responsibilities of the controllers are determined by Union or Member State law to which the controllers are subject. The arrangement may designate a contact point for data subjects.

1. 兩個或兩個以上控管者共同決定處理之目的及方式時，其應為共同控管者。共同控管者應以透明之方式，彼此間安排，確定其各自履行本規則所定義務之責任，尤其是關於資料主體行使其權利及其各自對於第 13 條及第 14 條所定提供資訊所負之責任，但控管者受拘束之歐盟法或會員國法已就控管者各自之責任定有明文者不在此限。該安排得指定資料主體之聯絡對口。

2. The arrangement referred to in paragraph 1 shall duly reflect the respective roles and relationships of the joint controllers *vis-à-vis* the data subjects. The essence of the arrangement shall be made available to the data subject.

2. 第 1 項所定安排應適當反映共同控管者對於資料主體各自之任務及關係。該安排之重點應提供予資料主體。

3. Irrespective of the terms of the arrangement referred to in paragraph 1, the data subject may exercise his or her rights under this Regulation in respect of and against each of the controllers.

3. 不問第一項所定安排之條款為何，資料主體得依據本規則對任一控管者行使其權利。

*Article 27*

第 27 條

**Representatives of controllers or processors not established in the Union**

**非設立於歐盟境內控管者或處理者之代表**

1. Where Article 3(2) applies, the controller or the processor shall designate in writing a representative in the Union.

1. 於第 3 條第 2 項有適用時，控管者或處理者應以書面指定歐盟境內之代表。

2. The obligation laid down in paragraph 1 of this Article shall not apply to:

2. 本條第 1 項所定義務，於下列情形不適用之：

(a) processing which is occasional, does not include, on a large scale, processing of special categories of data as referred to in Article 9(1) or processing of personal data relating to criminal convictions and offences referred to in Article 10, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing; or

(a) 偶然性之處理，不包括大規模處理第 9 條第 1 項所定之特殊類型個人資料或處理依第 10 條所定關於前科或犯罪之個人資料，且考量到處理之本質、過程、範圍與目的，不會對當事人之權利與自由造成風險者；或

(b) a public authority or body.

(b) 公務機關或機構。

3. The representative shall be established in one of the Member States



where the data subjects, whose personal data are processed in relation to the offering of goods or services to them, or whose behaviour is monitored, are.

3. 當處理活動涉及對資料主體提供貨品或服務或監控其行為者，代表應設立於資料主體所在之一會員國境內。

4. The representative shall be mandated by the controller or processor to be addressed in addition to or instead of the controller or the processor by, in particular, supervisory authorities and data subjects, on all issues related to processing, for the purposes of ensuring compliance with this Regulation.

4. 除該控管者或處理者外，代表應由控管者或處理者授權涉及處理之所有問題，尤其係對於監管機關及資料主體，以確保遵守本規則之目的。

5. The designation of a representative by the controller or processor shall be without prejudice to legal actions which could be initiated against the controller or the processor themselves.

5. 控管者或處理者所指定之代表不得影響得對於控管者或處理者本身提起之法律行動。

## *Article 28*

### 第 28 條

## **Processor**

### 處理者

1. Where processing is to be carried out on behalf of a controller, the controller shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.

1. 處理係由控管者之代表所為者，控管者應僅得任用提供充足保證

會實施適當之科技化且有組織的措施、使處理符合本規則要求、並確保資料主體權利保障之處理者。

2. The processor shall not engage another processor without prior specific or general written authorisation of the controller. In the case of general written authorisation, the processor shall inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes.

2. 未經控管者事先個案或一般書面授權者，處理者不得與其它處理者相交涉。在一般書面授權情況下，處理者應通知控管者關於增加或替換其他處理者之任何預期變化，從而給予控管者對該等變化提出異議之機會。

3. Processing by a processor shall be governed by a contract or other legal act under Union or Member State law, that is binding on the processor with regard to the controller and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. That contract or other legal act shall stipulate, in particular, that the processor:

3. 處理者所為處理應受契約或歐盟法或會員國法之其他立法之拘束，該等規定對於處理者及控管者具有拘束力，並規定處理標的及處理期間、處理之本質與目的、個人資料之類型及資料主體之類別以及控管者之義務及權利。該契約或其他立法尤其應規定處理者：

(a) processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

(a) 僅得依據控管者之書面指示處理個人資料，包括移轉個人資料至

第三國或國際組織，但處理者受拘束之歐盟法或會員國法要求其應為者不在此限；於此情形，除法律基於公共利益之重要理由禁止提供資訊者外，處理者於處理前應通知控管者該法定要求；

(b) ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(b) 確保被授權處理個人資料之人已承諾保密或具備適當之法定保密義務；

(c) takes all measures required pursuant to Article 32;

(c) 依第 32 條規定採取所有必要之保護措施；

(d) respects the conditions referred to in paragraphs 2 and 4 for engaging another processor;

(d) 遵守第 2 項及第 4 項所定任用其它處理者之要件；

(e) taking into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III;

(e) 考量到處理之本質，以適當之科技化且有組織的措施，在可能之情況下，協助控管者履行其回應資料主體行使第三章所定權利之請求之義務；

(f) assists the controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 taking into account the nature of processing and the information available to the processor;

(f) 考量到處理之本質及處理者可知資訊，協助控管者確保遵守第 32 條至第 36 條所定之義務；

(g) at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law

requires storage of the personal data;

(g) 在提供與處理有關之服務結束後，依控管者之選擇，向控管者刪除或移轉所有個人資料，並刪除現有副本，但歐盟法或會員國法要求儲存該等個人資料者，不在此限；

(h) makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in this Article and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller.

(h) 向控管者提供證明遵守本條所定義務所需之一切資訊，並允許及促進由控管者或控管者委任之其他審計師進行查核，包括檢查。

With regard to point (h) of the first subparagraph, the processor shall immediately inform the controller if, in its opinion, an instruction infringes this Regulation or other Union or Member State data protection provisions.

關於第一款第 h 點，如處理者認為某指令是否違反本規則或其他歐盟或會員國資料保護規定者，應立即通知控管者。

4. Where a processor engages another processor for carrying out specific processing activities on behalf of the controller, the same data protection obligations as set out in the contract or other legal act between the controller and the processor as referred to in paragraph 3 shall be imposed on that other processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of this Regulation. Where that other processor fails to fulfil its data protection obligations, the initial processor shall remain fully liable to the controller for the performance of that other processor's obligations.

4. 當處理者代表控管者與他處理者聯合進行特定之處理活動時，第 3 項所定控管者與處理者間之契約或其他立法規定之相同資料保護義務，應透過契約或歐盟法或會員國法所定之其他立法，使他處理者亦

有其適用，尤其是提供充分保證其將實施適當之科技化且有組織的措施，使其處理符合本規則之要求。如他處理者未能履行其資料保護義務，則原處理者應就他處理者義務之履行對控管者負完全責任。

5. Adherence of a processor to an approved code of conduct as referred to in Article 40 or an approved certification mechanism as referred to in Article 42 may be used as an element by which to demonstrate sufficient guarantees as referred to in paragraphs 1 and 4 of this Article.

5. 處理者遵守第 40 條所定經核准之行為守則或第 42 條所定經核准之認證機制者，得作為本條第 1 項及第 4 項所定充分保證之證明。

6. Without prejudice to an individual contract between the controller and the processor, the contract or the other legal act referred to in paragraphs 3 and 4 of this Article may be based, in whole or in part, on standard contractual clauses referred to in paragraphs 7 and 8 of this Article, including when they are part of a certification granted to the controller or processor pursuant to Articles 42 and 43.

6. 於無損及控管者及處理者間個別性契約之情況下，本條第 3 項及第 4 項所定契約或其他立法得全部或一部基於第 7 項及第 8 項所定之定型化契約條款，包括當其係依據第 42 條及第 43 條所定授予控管者或處理者認證之一部分時。

7. The Commission may lay down standard contractual clauses for the matters referred to in paragraph 3 and 4 of this Article and in accordance with the examination procedure referred to in Article 93(2).

7. 執委會得就本條第 3 項及第 4 項所定事項擬定定型化契約條款，並遵守第 93 條第 2 項所定之檢驗程序。

8. A supervisory authority may adopt standard contractual clauses for the matters referred to in paragraph 3 and 4 of this Article and in accordance with the consistency mechanism referred to in Article 63.

8. 監管機關得就本條第 3 項及第 4 項所定事項採用定型化契約條款，並遵守第 63 條所定之一致性機制。

9. The contract or the other legal act referred to in paragraphs 3 and 4 shall be in writing, including in electronic form.

9. 第 3 項及第 4 項所定契約或其他立法應以書面為之，包括電子形式。

10. Without prejudice to Articles 82, 83 and 84, if a processor infringes this Regulation by determining the purposes and means of processing, the processor shall be considered to be a controller in respect of that processing.

10. 於無損及第 82 條、第 83 條及第 84 條規定之情況下，如處理者決定處理之目的與方式違反本規則者，該處理者應被視為係該處理之控管者。

#### *Article 29*

#### 第 29 條

### **Processing under the authority of the controller or processor**

#### **控管者或處理者之處理權限**

The processor and any person acting under the authority of the controller or of the processor, who has access to personal data, shall not process those data except on instructions from the controller, unless required to do so by Union or Member State law.

除歐盟法或會員國法另有規定外，處理者及基於控管者或處理者權限而接近使用個人資料之任何行為人，非基於控管者之指示者，不得處理該等個人資料。

#### *Article 30*

#### 第 30 條

### **Records of processing activities**

#### **處理活動之紀錄**

1. Each controller and, where applicable, the controller's representative, shall maintain a record of processing activities under its responsibility. That record shall contain all of the following information:

1. 任一控管者及控管者代表（如適用）應維護其負責之處理活動紀錄。該紀錄應包含下列所有資訊：

(a) the name and contact details of the controller and, where applicable, the joint controller, the controller's representative and the data protection officer;

(a) 控管者以及共同控管者（如適用）、控管者代表及資料保護員之名稱及聯絡方式；

(b) the purposes of the processing;

(b) 處理目的；

(c) a description of the categories of data subjects and of the categories of personal data;

(c) 資料主體類型及個人資料類別之描述；

(d) the categories of recipients to whom the personal data have been or will be disclosed including recipients in third countries or international organisations;

(d) 個人資料已對其或將對其揭露之接收者類型，包括第三國或國際組織之接收者；

(e) where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1), the documentation of suitable safeguards;

(e) 將個人資料移轉至第三國或國際組織（如適用），包括指明該第三國或國際組織，且若係第 49 條第 1 項第 2 款所定之移轉者，適當保護措施之書面文件；

(f) where possible, the envisaged time limits for erasure of the different categories of data;

(f) 刪除不同類別之個人資料之預設時間上限（如可能）；

(g) where possible, a general description of the technical and organisational security measures referred to in Article 32(1).

(g) 第 32 條第 1 項所定科技化且有組織之安全措施之概述（如可能）；

2. Each processor and, where applicable, the processor's representative shall maintain a record of all categories of processing activities carried out on behalf of a controller, containing:

2. 各處理者及處理者代表（如適用）應維護代表控管者所進行之所有類別處理活動之紀錄，包括：

(a) the name and contact details of the processor or processors and of each controller on behalf of which the processor is acting, and, where applicable, of the controller's or the processor's representative, and the data protection officer;

(a) 各控管者及代各控管者進行處理之一個或多個處理者及該各控管者或處理者代表（如適用）及資料保護員之名稱及聯絡方式；

(b) the categories of processing carried out on behalf of each controller;

(b) 各控管者之代表所進行之處理類型；

(c) where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1), the documentation of suitable safeguards;

(c) 將個人資料移轉至第三國或國際組織（如適用），包括指明該第三國或國際組織，且若係第 49 條第 1 項第 2 款所定之移轉者，適當保護措施之書面文件；



(d) where possible, a general description of the technical and organisational security measures referred to in Article 32(1).

(d) 第 32 條第 1 項所定科技化且有組織之安全措施之概述（如可能）；

3. The records referred to in paragraphs 1 and 2 shall be in writing, including in electronic form.

3. 第 1 項及第 2 項所定紀錄應以書面為之，包括電子形式。

4. The controller or the processor and, where applicable, the controller's or the processor's representative, shall make the record available to the supervisory authority on request.

4. 控管者或處理者及控管者或處理者代表(如適用)應依監管機關之要求提供紀錄。

5. The obligations referred to in paragraphs 1 and 2 shall not apply to an enterprise or an organisation employing fewer than 250 persons unless the processing it carries out is likely to result in a risk to the rights and freedoms of data subjects, the processing is not occasional, or the processing includes special categories of data as referred to in Article 9(1) or personal data relating to criminal convictions and offences referred to in Article 10.

5. 第 1 項及第 2 項所定義務不適用於員工人數低於 250 人以下之企業或組織，除非其所為之處理會造成資料主體權利及自由之風險、非偶然性之處理、或其處理包括第 9 條第 1 項所定特殊類型之個人資料、或為第 10 條所定涉及前科及犯罪之個人資料。

### *Article 31*

### *第 31 條*

## **Cooperation with the supervisory authority**

### **與監管機關之合作**

The controller and the processor and, where applicable, their representatives, shall cooperate, on request, with the supervisory authority in the performance of its tasks.

控管者及處理者應依要求與監管機關合作執行其職務。控管者及處理者之代理人於得適用時，亦同。

## Section 2

### 第 2 節

#### **Security of personal data**

##### 個人資料之安全

#### *Article 32*

### 第 32 條

#### **Security of processing**

##### 處理之安全

1. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:

1. 考量現有技術、執行成本、處理之本質、範圍、脈絡及目的與對當事人權利及自由之風險變動之可能性與嚴重性，控管者及處理者應執行採取適當之科技化且有組織的措施，以確保對於風險之適當安全程度，包括但不限於適當之如下事項：

(a) the pseudonymisation and encryption of personal data;

(a) 個人資料之假名化及加密；

(b) the ability to ensure the ongoing confidentiality, integrity, availability

and resilience of processing systems and services;

(b) 確保處理系統及服務持續之機密性、完整性、可用性及彈性之能力；

(c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(c) 在物理性或技術性事件中及時回復個人資料可用性及可接近性之能力；

(d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

(d) 定期測試，評估並衡量確保處理安全性之科技化且有組織之措施之有效性。

2. In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.

2. 於衡量適當之安全程度時，尤其應考量因處理而造成之風險，特別是來自意外或非法破壞、損失、改變、未獲授權之揭露、或經傳輸、儲存或其他處理之個人資料之接近權。

3. Adherence to an approved code of conduct as referred to in Article 40 or an approved certification mechanism as referred to in Article 42 may be used as an element by which to demonstrate compliance with the requirements set out in paragraph 1 of this Article.

3. 恪守第 40 條所稱經核准之行為守則或第 42 條所稱經核准之認證機制，得作為顯示遵循本條第 1 項要求之斟酌因素之一。

4. The controller and processor shall take steps to ensure that any natural person acting under the authority of the controller or the processor who

has access to personal data does not process them except on instructions from the controller, unless he or she is required to do so by Union or Member State law.

4. 控管者及處理者應採取行動，確保任何受該取得個人資料之控管者或處理者指揮之個人不得為指示外之處理，但其受歐盟法或會員國法要求而為之者，不在此限。

### *Article 33*

### 第 33 條

#### **Notification of a personal data breach to the supervisory authority**

#### **向監管機關進行個人資料侵害之通報**

1. In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority competent in accordance with Article 55, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons. Where the notification to the supervisory authority is not made within 72 hours, it shall be accompanied by reasons for the delay.

1. 於個人資料侵害發生時，控管者即應依第 55 條向監管機關通報，不得無故遲延，且如可能，應於發現後 72 小時內通報，但個人資料侵害無造成對當事人權利及自由之風險時，不在此限。於未於 72 小時內向監管機關通報之情形，通報應附遲延之理由。

2. The processor shall notify the controller without undue delay after becoming aware of a personal data breach.

2. 發現個人資料侵害後，處理者應通報控管者，不得無故遲延。

3. The notification referred to in paragraph 1 shall at least:

3. 第 1 項之通報至少應：

(a) describe the nature of the personal data breach including where

possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

(a) 描述個人資料侵害之本質，如有可能，應包括相關資料主體之類型及大致數量，及相關個人資料紀錄之類型及大致數量；

(b) communicate the name and contact details of the data protection officer or other contact point where more information can be obtained;

(b) 告知資料保護員之姓名及聯絡細節，或其他得獲得更多資訊之聯絡者；

(c) describe the likely consequences of the personal data breach;

(c) 描述個人資料侵害之可能結果；

(d) describe the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

(d) 描述控管者已採取或預計採取用以處理個人資料侵害之措施，如適當，應包括降低可能不利影響之措施。

4. Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

4. 於目前無法同時提供資訊時，資訊應分階段提供，不得有進一步之無故遲延。

5. The controller shall document any personal data breaches, comprising the facts relating to the personal data breach, its effects and the remedial action taken. That documentation shall enable the supervisory authority to verify compliance with this Article.

5. 控管者應記載任何個人資料侵害，包括與個人資料侵害相關之事實、其影響及已採取之救濟措施。該等記載應得由監管機關查驗是否與本條相符。

## Article 34

### 第 34 條

#### Communication of a personal data breach to the data subject

##### 向資料主體為個人資料侵害之溝通

1. When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall communicate the personal data breach to the data subject without undue delay.

1. 於個人資料侵害可能導致當事人權利及自由之高風險時，控管者應與資料主體溝通個人資料侵害，不得無故遲延。

2. The communication to the data subject referred to in paragraph 1 of this Article shall describe in clear and plain language the nature of the personal data breach and contain at least the information and measures referred to in points (b), (c) and (d) of Article 33(3).

2. 本條第 1 項所稱向資料主體之溝通，應以清楚簡易之語言描述個人資料侵害，並至少包括第 33 條第 3 項第 (b)、(c)、及 (d) 點之資訊及措施。

3. The communication to the data subject referred to in paragraph 1 shall not be required if any of the following conditions are met:

3. 第 1 項所稱向資料主體之溝通，遇有符合下列條件之一者，應無須被要求為之：

(a) the controller has implemented appropriate technical and organisational protection measures, and those measures were applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption;

(a) 控管者已執行適當之科技化與有組織之措施，且該等措施已適用於受個人資料侵害影響之個人資料，尤其已使未獲授權接近使用之人無法識別個人資料者，如加密；

(b) the controller has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects referred to in paragraph 1 is no longer likely to materialise;

(b) 控管者已採取後續措施，確保第 1 項所稱對資料主體權利及自由之高風險已不會實現；

(c) it would involve disproportionate effort. In such a case, there shall instead be a public communication or similar measure whereby the data subjects are informed in an equally effective manner.

(c) 涉及不符比例之努力。於此情形，應有公共溝通或類似措施取代之，使資料主體獲相同有效之通知。

4. If the controller has not already communicated the personal data breach to the data subject, the supervisory authority, having considered the likelihood of the personal data breach resulting in a high risk, may require it to do so or may decide that any of the conditions referred to in paragraph 3 are met.

4. 於控管者尚未向資料主體溝通個人資料侵害時，監管機關得考量個人資料侵害可能導致高風險，要求控管者進行溝通或認定第 3 項之任一條件已符合。

## *Article 35*

### **Data protection impact assessment**

#### *第 35 條*

#### **資料保護影響評估**

1. Where a type of processing in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the

protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

1. 於特別使用新科技之處理方式，且考量該處理之本質、範圍、使用情形及目的後，認為該處理可能導致自然人之權利及自由的高度風險時，控管者應於處理前，實行該處理對於個人資料保護之影響評估。單一評估得針對一系列呈現相似高風險之類似處理。

2. The controller shall seek the advice of the data protection officer, where designated, when carrying out a data protection impact assessment.

2. 實行資料保護影響評估時，控管者應尋求資料保護員之意見。

3. A data protection impact assessment referred to in paragraph 1 shall in particular be required in the case of:

3. 第 1 項所稱資料保護影響評估於下列情形應特別被要求：

(a) a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;

(a) 關於自然人之系統性及大規模的個人特質評估，而該評估是基於自動處理，包含建檔，且基於該評估作成關於該自然人之法律效果或其他重大影響該自然人之決定；

(b) processing on a large scale of special categories of data referred to in Article 9(1), or of personal data relating to criminal convictions and offences referred to in Article 10; or

(b) 處理大規模之第 9 條第 1 項所稱之特殊類型個人資料，或關於第 10 條所稱前科及犯罪之個人資料；

(c) a systematic monitoring of a publicly accessible area on a large scale.

(c) 大規模系統性監督公共區域。



4. The supervisory authority shall establish and make public a list of the kind of processing operations which are subject to the requirement for a data protection impact assessment pursuant to paragraph 1. The supervisory authority shall communicate those lists to the Board referred to in Article 68.

4. 監管機關應建立並公布依第 1 項需要資料保護影響評估之處理類型清單。監管機關應與第 68 條所稱之委員會溝通該清單。

5. The supervisory authority may also establish and make public a list of the kind of processing operations for which no data protection impact assessment is required. The supervisory authority shall communicate those lists to the Board.

5. 監管機關亦得建立並公布不需要資料保護影響評估之處理類型清單。監管機關應與委員會溝通該清單。

6. Prior to the adoption of the lists referred to in paragraphs 4 and 5, the competent supervisory authority shall apply the consistency mechanism referred to in Article 63 where such lists involve processing activities which are related to the offering of goods or services to data subjects or to the monitoring of their behaviour in several Member States, or may substantially affect the free movement of personal data within the Union.

6. 於採用第 4 項及第 5 項所稱之清單前，於該等清單涉及有關提供商品或服務與資料主體或有關在各會員國監督其行為，或可能實質影響個人資料於歐盟自由流通等之處理活動時，主管監管機關應適用第 63 條所稱之一致性機制。

7. The assessment shall contain at least:

7. 評估應至少包含：

(a) a systematic description of the envisaged processing operations and the purposes of the processing, including, where applicable, the legitimate interest pursued by the controller;

(a) 擬採用處理之系統性描述及該處理之目的，於可適用之情形，包

含控管者追求之合法利益；

(b) an assessment of the necessity and proportionality of the processing operations in relation to the purposes;

(b) 該處理之必要性及比例性與目的間之關係評估；

(c) an assessment of the risks to the rights and freedoms of data subjects referred to in paragraph 1; and

(c) 對於第 1 項所稱資料主體之權利及自由之風險評估；及

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation taking into account the rights and legitimate interests of data subjects and other persons concerned.

(d) 應對風險之方式，包含保護措施、保全措施及確保個人資料保護及符合本規則考慮資料主體及其他相關人員之權利及合法利益之機制。

8. Compliance with approved codes of conduct referred to in Article 40 by the relevant controllers or processors shall be taken into due account in assessing the impact of the processing operations performed by such controllers or processors, in particular for the purposes of a data protection impact assessment.

8. 第 40 條所稱經核准之行為守則是否為相關控管者或處理者所遵循，應於評估由該等控管者或處理者所為之處理所造成之影響時，予以慎重考慮，特別是為資料保護影響評估之目的時。

9. Where appropriate, the controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of processing operations.

9. 在不實質影響商業或公共利益之保護或處理之保全的前提下，於

適當時，控管者應尋求資料主體或其代表人對於處理之意見。

10. Where processing pursuant to point (c) or (e) of Article 6(1) has a legal basis in Union law or in the law of the Member State to which the controller is subject, that law regulates the specific processing operation or set of operations in question, and a data protection impact assessment has already been carried out as part of a general impact assessment in the context of the adoption of that legal basis, paragraphs 1 to 7 shall not apply unless Member States deem it to be necessary to carry out such an assessment prior to processing activities.

10. 於依第 6 條第 1 項第 c 點或第 e 點之處理有控管者遵循之歐盟法或會員國法之法律基礎，而該法管制特定處理或有爭議之處理，且資料保護影響評估已因採用該法律基礎而於概括影響評估中實行時，除會員國認為有必要於處理活動前實行該評估外，第 1 項至第 7 項不適用之。

11. Where necessary, the controller shall carry out a review to assess if processing is performed in accordance with the data protection impact assessment at least when there is a change of the risk represented by processing operations.

11. 於必要時，控管者至少應於處理之風險有變化時，審查評估是否依資料保護影響評估實行處理。

### *Article 36*

### **Prior consultation**

### *第 36 條*

### **事前諮詢**

1. The controller shall consult the supervisory authority prior to processing where a data protection impact assessment under Article 35 indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk.

1. 當資料保護影響評估依第 35 條顯現若控管者未採取降低風險之措施，該處理將導致高風險時，控管者應於處理前諮詢監管機關。

2. Where the supervisory authority is of the opinion that the intended processing referred to in paragraph 1 would infringe this Regulation, in particular where the controller has insufficiently identified or mitigated the risk, the supervisory authority shall, within period of up to eight weeks of receipt of the request for consultation, provide written advice to the controller and, where applicable to the processor, and may use any of its powers referred to in Article 58. That period may be extended by six weeks, taking into account the complexity of the intended processing. The supervisory authority shall inform the controller and, where applicable, the processor, of any such extension within one month of receipt of the request for consultation together with the reasons for the delay. Those periods may be suspended until the supervisory authority has obtained information it has requested for the purposes of the consultation.

2. 當監管機關認為第 1 項所稱之處理將違反本規則，尤其是當控管者未能完全指出或減低風險時，監管機關應於收受諮詢請求後 8 周內，提供書面意見予控管者並視情形予處理者，並得行使其於第 58 條所載之任何權力。該期間可因處理之複雜程度再延長 6 周。監管機關應於收受諮詢請求後 1 個月內通知控管者並視情形通知處理者上開延期情況及延期原因。該等期間得中止至監管機關取得提供諮詢所需之資訊。

3. When consulting the supervisory authority pursuant to paragraph 1, the controller shall provide the supervisory authority with:

3. 依第 1 項諮詢監管機關時，控管者應提供監管機關：

(a) where applicable, the respective responsibilities of the controller, joint controllers and processors involved in the processing, in particular for processing within a group of undertakings;

(a) 於可適用時，涉及處理之控管者、共同控管者及處理者分別之責任，尤其是在企業集團內所為之處理；

- (b) the purposes and means of the intended processing;
- (b) 該處理之目的及方法；
- (c) the measures and safeguards provided to protect the rights and freedoms of data subjects pursuant to this Regulation;
- (c) 依本規則保護資料主體權利及自由之措施及保護方式；
- (d) where applicable, the contact details of the data protection officer;
- (d) 於可適用時，資料保護員之詳細聯絡方式；
- (e) the data protection impact assessment provided for in Article 35; and
- (e) 依第 35 條提供之資料保護影響評估；及
- (f) any other information requested by the supervisory authority.
- (f) 其他任何監管機關要求之資訊。

4. Member States shall consult the supervisory authority 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.

4. 會員國應於提出將由國會採納之立法措施建議之準備期間，或依該立法措施之管制措施之準備期間，視何者與處理有關，而諮詢監管機關。

5. Notwithstanding paragraph 1, Member State law may require controllers to consult with, and obtain prior authorisation from, the supervisory authority in relation to processing by a controller for the performance of a task carried out by the controller in the public interest, including processing in relation to social protection and public health.

5. 會員國法得不受第 1 項之拘束，要求控管者針對由控管者為公共利益履行任務之處理，包含與社會保護及公共健康有關之處理，諮詢並自監管機關取得事前授權。

## Section 4

### 第 4 節

#### **Data protection officer**

#### 資料保護員

#### *Article 37*

#### 第 37 條

#### **Designation of the data protection officer**

#### 資料保護員之指定

1. The controller and the processor shall designate a data protection officer in any case where:

1. 於下列任一情形，控管者及處理者應指定資料保護員：

(a) the processing is carried out by a public authority or body, except for courts acting in their judicial capacity;

(a) 除法院行使其司法權外，該處理係由公務機關或機構執行；

(b) the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or

(b) 控管者或處理者之核心活動，包括依其本質、範圍及/或其目的，需要定期且系統性地大規模監控資料主體；或

(c) the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences referred to in Article 10.

(c) 控管者或處理者之核心活動，包括第 9 條所稱之大規模處理特殊

類型之資料及第 10 條所稱之前科與犯罪相關之個人資料。

2. A group of undertakings may appoint a single data protection officer provided that a data protection officer is easily accessible from each establishment.

2. 於各分支機構皆易於接近單一名資料保護員時，企業集團得指定同一名資料保護員。

3. Where the controller or the processor is a public authority or body, a single data protection officer may be designated for several such authorities or bodies, taking account of their organisational structure and size.

3. 於控管者或處理者為公務機關或機構時，考量其組織結構與規模，單一名資料保護員得受指定至多個該等機關或機構。

4. In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may or, where required by Union or Member State law shall, designate a data protection officer. The data protection officer may act for such associations and other bodies representing controllers or processors.

4. 於第 1 項以外之情形，控管者、處理者或組織及其他代表控管者或處理者類型之機構得指定資料保護員，或於歐盟或會員國法要求時應指定之。

5. The data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39.

5. 資料保護員應依專業資格、尤其資料保護法律與實踐之專業知識、及完成第 39 條所稱職務之能力指定之。

6. The data protection officer may be a staff member of the controller or processor, or fulfil the tasks on the basis of a service contract.

6. 資料保護員得為控管者或處理者之工作人員，或基於服務契約完成職務。

7. The controller or the processor shall publish the contact details of the data protection officer and communicate them to the supervisory authority.

7. 控管者或處理者應公告資料保護員之契約細節，並向監管機關溝通之。

### *Article 38*

#### 第 38 條

### **Position of the data protection officer**

#### 資料保護員之職位

1. The controller and the processor shall ensure that the data protection officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.

1. 控管者及處理者應確保資料保護員適當且及時涉入所有有關個人資料保護之業務。

2. The controller and processor shall support the data protection officer in performing the tasks referred to in Article 39 by providing resources necessary to carry out those tasks and access to personal data and processing operations, and to maintain his or her expert knowledge.

2. 控管者及處理者應透過提供為執行職務及對個人資料與處理活動之可及性所必要、以及維持其專業知識所必要之資源，支持資料保護員行使第 39 條所稱職務。

3. The controller and processor shall ensure that the data protection officer does not receive any instructions regarding the exercise of those tasks. He or she shall not be dismissed or penalised by the controller or the processor for performing his tasks. The data protection officer shall directly report to the highest management level of the controller or the



processor.

3. 控管者及處理者應確保資料保護員免於接收任何有關執行職務之指令。其不得因執行職務而被控管者或處理者解任或處罰。資料保護員應直接向處理者或管理者之最高管理階層報告。

4. Data subjects may contact the data protection officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation.

4. 資料主體就所有與其資料處理及行使本規則權利之有關原因，得聯繫資料保護員。

5. The data protection officer shall be bound by secrecy or confidentiality concerning the performance of his or her tasks, in accordance with Union or Member State law.

5. 資料保護員應依歐盟或會員國法，就其職務負保密義務。

6. The data protection officer may fulfil other tasks and duties. The controller or processor shall ensure that any such tasks and duties do not result in a conflict of interests.

6. 資料保護員得完成其他職務與職責。控管者或處理者應確保任何該等職務與職責不致利害衝突。

### *Article 39*

### 第 39 條

## **Tasks of the data protection officer**

### **資料保護員之職務**

1. The data protection officer shall have at least the following tasks:

1. 資料保護員應至少有下列之職務：

(a) to inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation

and to other Union or Member State data protection provisions;

(a) 依本規則及其他歐盟或會員國法之資料保護規定通知並建議控管者或處理者及執行其義務之員工；

(b) to monitor compliance with this Regulation, with other Union or Member State data protection provisions and with the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;

(b) 監督本規則、其他歐盟或會員國法之資料保護規定及與個人資料保護相關對控管者或處理者之政策，包括責任分配、提高認識及工作人員關於處理活動之訓練、以及相關審計之遵循；

(c) to provide advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 35;

(c) 於受資料保護影響評估請求時，提供建議，並依第 35 條監督其執行；

(d) to cooperate with the supervisory authority;

(d) 與監管機關合作；

(e) to act as the contact point for the supervisory authority on issues relating to processing, including the prior consultation referred to in Article 36, and to consult, where appropriate, with regard to any other matter.

(e) 於處理相關之議題，包括第 36 條所稱之事前諮詢時，擔任監管機關之連絡站，並於適當時提供其他事項之諮詢；

2. The data protection officer shall in the performance of his or her tasks have due regard to the risk associated with processing operations, taking into account the nature, scope, context and purposes of processing.

2. 資料保護員於執行其職務時，應考量處理之本質、範圍、脈絡及目的，適當考慮處理活動所涉風險，

## Section 5

### 第 5 節

#### **Codes of conduct and certification**

#### **行為守則與認證**

#### *Article 40*

#### 第 40 條

#### **Codes of conduct**

#### **行為守則**

1. The Member States, the supervisory authorities, the Board and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation, taking account of the specific features of the various processing sectors and the specific needs of micro, small and medium-sized enterprises.

1. 會員國、監管機關、委員會及執委會對於行為守則之訂立，應給予鼓勵，以促進本規則之有效適用，並考量某些行業執行資料處理之特定特徵及微型、中小型企業之特定需求。

2. Associations and other bodies representing categories of controllers or processors may prepare codes of conduct, or amend or extend such codes, for the purpose of specifying the application of this Regulation, such as with regard to:

2. 組織與代表控管者或處理者類型之其他機構得備置行為守則或修改或擴張該守則以明確化本規則之適用範圍，例如：

(a) fair and transparent processing;

(a) 公正及透明之處理：

(b) the legitimate interests pursued by controllers in specific contexts;

- (b) 控管者於具體情況下追求之正當利益；
- (c) the collection of personal data;
- (c) 個人資料之蒐集；
- (d) the pseudonymisation of personal data;
- (d) 個人資料之假名化；
- (e) the information provided to the public and to data subjects;
- (e) 提供大眾及資料主體之資訊；
- (f) the exercise of the rights of data subjects;
- (f) 資料主體權利之行使；
- (g) the information provided to, and the protection of, children, and the manner in which the consent of the holders of parental responsibility over children is to be obtained;
- (g) 向兒童提供之資訊及對於兒童之保護，以及獲得其法定代理人同意之方式；
- (h) the measures and procedures referred to in Articles 24 and 25 and the measures to ensure security of processing referred to in Article 32;
- (h) 第 24 條及第 25 條所定之方式及程序，及第 32 條所定確保處理安全性之保護措施；
- (i) the notification of personal data breaches to supervisory authorities and the communication of such personal data breaches to data subjects;
- (i) 向監管機關通知個人資料之侵害，以及將該等個人資料侵害通知資料主體；
- (j) the transfer of personal data to third countries or international organisations; or
- (j) 個人資料移轉至第三國或國際組織；或

(k) out-of-court proceedings and other dispute resolution procedures for resolving disputes between controllers and data subjects with regard to processing, without prejudice to the rights of data subjects pursuant to Articles 77 and 79.

(k) 法庭外程序與其他爭端解決程序，用以解決控管者和資料主體間關於處理之爭議，而不損及第 77 條及第 79 條所定之資料主體之權利。

3. In addition to adherence by controllers or processors subject to this Regulation, codes of conduct approved pursuant to paragraph 5 of this Article and having general validity pursuant to paragraph 9 of this Article may also be adhered to by controllers or processors that are not subject to this Regulation pursuant to Article 3 in order to provide appropriate safeguards within the framework of personal data transfers to third countries or international organisations under the terms referred to in point (e) of Article 46(2). Such controllers or processors shall make binding and enforceable commitments, via contractual or other legally binding instruments, to apply those appropriate safeguards including with regard to the rights of data subjects.

3. 本條第 5 項所定經核准及本條第 9 項所定具有一般規範效力之行為守則，除適用於受本規則拘束之控管者或處理者外，亦得適用於第 3 條所定不受本規則拘束之控管者或處理者，使其依第 46 條第 2 項第 e 點規定將個人資料移轉至第三國或國際組織時得以提供適當之保護措施。該等控管者或處理者應透過契約或其他具有法律拘束力之文書，做成具有拘束力且可得執行之承諾，以適用該等適當之保護措施，包括關於資料主體之權利。

4. A code of conduct referred to in paragraph 2 of this Article shall contain mechanisms which enable the body referred to in Article 41(1) to carry out the mandatory monitoring of compliance with its provisions by the controllers or processors which undertake to apply it, without prejudice to the tasks and powers of supervisory authorities competent pursuant to Article 55 or 56.

4. 本條第 2 項所定之行為守則應涵蓋得以使第 41 條第 1 項所定機構對承諾遵守該等規範之控管者或處理者進行強制性監控之機制，而不損及第 55 條或 56 條所定主管監管機關之任務及權力。

5. Associations and other bodies referred to in paragraph 2 of this Article which intend to prepare a code of conduct or to amend or extend an existing code shall submit the draft code, amendment or extension to the supervisory authority which is competent pursuant to Article 55. The supervisory authority shall provide an opinion on whether the draft code, amendment or extension complies with this Regulation and shall approve that draft code, amendment or extension if it finds that it provides sufficient appropriate safeguards.

5. 本條第 2 項所定欲備置行為守則或修改或擴張現存行為守則之組織及其他機構，應將該行為守則草案、修正案或擴充案提交至第 55 條所定之主管監管機關。該監管機關應提供該草案、修正案或擴充案是否符合本規則之意見，如其認為已提供充分且適當之保護措施者，即應核准該草案、修正案或擴充案。

6. Where the draft code, or amendment or extension is approved in accordance with paragraph 5, and where the code of conduct concerned does not relate to processing activities in several Member States, the supervisory authority shall register and publish the code.

6. 依第 5 項規定核准行為守則草案或修正案或擴充案，且該行為守則與多個會員國之處理活動無關者，監管機關應登記並公布該行為守則。

7. Where a draft code of conduct relates to processing activities in several Member States, the supervisory authority which is competent pursuant to Article 55 shall, before approving the draft code, amendment or extension, submit it in the procedure referred to in Article 63 to the Board which shall provide an opinion on whether the draft code, amendment or extension complies with this Regulation or, in the situation referred to in paragraph 3 of this Article, provides appropriate safeguards.

7. 如行為守則涉及多個會員國之處理活動者，第 55 條所定之主管監

管機關於核准該草案、修正案或擴充案前，應依照第 63 條所定程序將之提交至委員會，使其就該草案、修正案或擴充案是否符合本規則之規定或是否已依本條第 3 項規定提供適當保護乙節表示意見。

8. Where the opinion referred to in paragraph 7 confirms that the draft code, amendment or extension complies with this Regulation, or, in the situation referred to in paragraph 3, provides appropriate safeguards, the Board shall submit its opinion to the Commission.

8. 第 7 項所定之意見確認該草案、修正案或擴充案符合本規則或已依照第 3 項規定提供適當保護者，委員會應將其意見提交至執委會。

9. The Commission may, by way of implementing acts, decide that the approved code of conduct, amendment or extension submitted to it pursuant to paragraph 8 of this Article have general validity within the Union. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 93(2).

9. 執委會得以施行法之方式，決定本條第 8 項所定經提交且核准之行為守則、修正案及擴充案於歐盟內具有一般規範效力。該等施行法應依照第 93 條第 2 項所定檢驗程序通過。

10. The Commission shall ensure appropriate publicity for the approved codes which have been decided as having general validity in accordance with paragraph 9.

10. 執委會應確保依照第 9 項規定具有一般規範效力且經核准之行為守則之公示性。

11. The Board shall collate all approved codes of conduct, amendments and extensions in a register and shall make them publicly available by way of appropriate means.

11. 委員會應將所有經核准之行為守則、修正案及擴充案整理登錄，並應以適當方式公開之。

*Article 41*

第 41 條

**Monitoring of approved codes of conduct**

**經核准之行為守則之監管**

1. Without prejudice to the tasks and powers of the competent supervisory authority under Articles 57 and 58, the monitoring of compliance with a code of conduct pursuant to Article 40 may be carried out by a body which has an appropriate level of expertise in relation to the subject-matter of the code and is accredited for that purpose by the competent supervisory authority.

1. 在不損及第 57 條及 58 條所定主管監管機關之任務及權力之情況下，得由機構進行第 40 條所定對行為守則遵守情況之監測，該機構應具備行為守則所涉及事件之適當程度之專業知識，且經主管監管機關認證。

2. A body as referred to in paragraph 1 may be accredited to monitor compliance with a code of conduct where that body has:

2. 第 1 項所定得經認證以監測行為守則被遵守情況之機構，應具備：

(a) demonstrated its independence and expertise in relation to the subject-matter of the code to the satisfaction of the competent supervisory authority;

(a) 證明其具備行為守則所涉及事件之獨立性及專業性至主管監管機關滿意；

(b) established procedures which allow it to assess the eligibility of controllers and processors concerned to apply the code, to monitor their compliance with its provisions and to periodically review its operation;

(b) 建立使其得以評估控管者及處理者適用該行為守則之資格之程序，以監測其遵守情況，並定期審查其運作情形；



(c) established procedures and structures to handle complaints about infringements of the code or the manner in which the code has been, or is being, implemented by a controller or processor, and to make those procedures and structures transparent to data subjects and the public; and

(c) 建立處理申訴之程序及組織，以處理違反行為守則或控管者或處理者執行之方式已違反或正違反行為守則之申訴，並向資料主體及公眾公開該等程序及組織；及

(d) demonstrated to the satisfaction of the competent supervisory authority that its tasks and duties do not result in a conflict of interests.

(d) 證明其任務及責任不會產生利害衝突至主管監管機關滿意。

3. The competent supervisory authority shall submit the draft criteria for accreditation of a body as referred to in paragraph 1 of this Article to the Board pursuant to the consistency mechanism referred to in Article 63.

3. 主管監管機關應依照第 63 條所定一致性機制，向委員會提交本條第 1 項所定機構之認證標準草案。

4. Without prejudice to the tasks and powers of the competent supervisory authority and the provisions of Chapter VIII, a body as referred to in paragraph 1 of this Article shall, subject to appropriate safeguards, take appropriate action in cases of infringement of the code by a controller or processor, including suspension or exclusion of the controller or processor concerned from the code. It shall inform the competent supervisory authority of such actions and the reasons for taking them.

4. 在不損及主管監管機關之任務及權力且第 8 章規定之情況，本條第 1 項所定機構應在適當保護措施下，對於控管者或處理者違反行為守則事件採取適當行動，包括將控管者或處理者停權或於行為守則中剔除。其對於控管者或處理者所為行為及其理由應通知主管監管機關。

5. The competent supervisory authority shall revoke the accreditation of a body as referred to in paragraph 1 if the conditions for accreditation are

not, or are no longer, met or where actions taken by the body infringe this Regulation.

5. 機構欠缺認證要件或不再具備認證要件或機構行為違反本規則規定者，主管監管機關應撤銷第一項所定之認證。

6. This Article shall not apply to processing carried out by public authorities and bodies.

6. 本條不適用於公務機關及機構之處理。

## *Article 42*

### 第 42 條

## **Certification**

### 認證

1. The Member States, the supervisory authorities, the Board and the Commission shall encourage, in particular at Union level, the establishment of data protection certification mechanisms and of data protection seals and marks, for the purpose of demonstrating compliance with this Regulation of processing operations by controllers and processors. The specific needs of micro, small and medium-sized enterprises shall be taken into account.

1. 會員國、監管機關、委員會及執委會應鼓勵，尤其係歐盟層級，建立資料保護認證機制與資料保護標章及標誌，以證明控管者及處理者之處理活動遵守本規則。微型及中小型企業之具體需求應予考慮。

2. In addition to adherence by controllers or processors subject to this Regulation, data protection certification mechanisms, seals or marks approved pursuant to paragraph 5 of this Article may be established for the purpose of demonstrating the existence of appropriate safeguards provided by controllers or processors that are not subject to this Regulation pursuant to Article 3 within the framework of personal data transfers to third countries or international organisations under the terms

referred to in point (f) of Article 46(2). Such controllers or processors shall make binding and enforceable commitments, via contractual or other legally binding instruments, to apply those appropriate safeguards, including with regard to the rights of data subjects.

2. 本條第 5 項所定經核准之資料保護認證機制與資料保護標章及標誌，除適用於受本規則拘束之控管者或處理者外，亦得為第 3 條所定不受本規則拘束之控管者或處理者依第 46 條第 2 項第 f 點規定將個人資料移轉至第三國或國際組織時，用以證明適當保護措施之存在。該等控管者或處理者應透過契約或其他具有法律拘束力之文書，做成具有拘束力且可得執行之承諾，以適用該等適當之保護措施，包括關於資料主體之權利。

3. The certification shall be voluntary and available via a process that is transparent.

3. 認證應係志願性的，並透過透明程序取得。

4. A certification pursuant to this Article does not reduce the responsibility of the controller or the processor for compliance with this Regulation and is without prejudice to the tasks and powers of the supervisory authorities which are competent pursuant to Article 55 or 56.

4. 本條所定認證不減損控管者或處理者遵守本規則之責任，且不損及第 55 條或第 56 條所定主管監管機關之任務及權力。

5. A certification pursuant to this Article shall be issued by the certification bodies referred to in Article 43 or by the competent supervisory authority, on the basis of criteria approved by that competent supervisory authority pursuant to Article 58(3) or by the Board pursuant to Article 63. Where the criteria are approved by the Board, this may result in a common certification, the European Data Protection Seal.

5. 本條所定之認證應由認證機構依第 43 條規定或主管監管機關依據第 58 條第 3 項所核准之標準或由委員會依第 63 條規定為之。委員會核准之標準得為通用性認證，即歐盟資料保護標章。

6. The controller or processor which submits its processing to the

certification mechanism shall provide the certification body referred to in Article 43, or where applicable, the competent supervisory authority, with all information and access to its processing activities which are necessary to conduct the certification procedure.

6. 將處理提交至認證機制之控管者或處理者應向第 43 條所定之認證機構或主管監管機關（如適用）提供認證程序所需關於其處理活動之所有資訊及接近使用之方式。

7. Certification shall be issued to a controller or processor for a maximum period of three years and may be renewed, under the same conditions, provided that the relevant requirements continue to be met. Certification shall be withdrawn, as applicable, by the certification bodies referred to in Article 43 or by the competent supervisory authority where the requirements for the certification are not or are no longer met.

7. 對控管者或處理者所為之認證，最長期限應為三年，且在相同要件下並持續符合相關要求者，得更新之。第 43 條所定之認證機構或主管監管機關（如適用）於欠缺認證要件或不再符合認證要件之情況下，應撤回認證。

8. The Board shall collate all certification mechanisms and data protection seals and marks in a register and shall make them publicly available by any appropriate means.

8. 委員會應將所有資料保護認證機制與資料保護標章及標誌整理登錄，並應以適當方式公開之。

### *Article 43*

### 第 43 條

## **Certification bodies**

### **認證機構**

1. Without prejudice to the tasks and powers of the competent supervisory authority under Articles 57 and 58, certification bodies which

have an appropriate level of expertise in relation to data protection shall, after informing the supervisory authority in order to allow it to exercise its powers pursuant to point (h) of Article 58(2) where necessary, issue and renew certification. Member States shall ensure that those certification bodies are accredited by one or both of the following:

1. 在不損及第 57 條及 58 條所定主管監管機關之任務及權力之情況下，具備關於資料保護之適當程度專業性之認證機構，於通知監管機關使其得於必要時依照第 58 條第 2 項第 h 點行使其權力後，核發及更新認證。會員國應確保該等認證機構通過下列一項或二項之認證：

(a) the supervisory authority which is competent pursuant to Article 55 or 56;

(a) 第 55 條或第 56 條所定之主管監管機構；

(b) the national accreditation body named in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council (1) in accordance with EN-ISO/IEC 17065/2012 and with the additional requirements established by the supervisory authority which is competent pursuant to Article 55 or 56.

(b) 依 EN-ISO/IEC 第 17065/2012 號標準以及主管監管機關依第 55 條或第 56 條規定所建立之附加要求，按歐洲議會及歐盟理事會<sup>(1)</sup>第 765/2008 號規則命名之國家認證機構。

2. Certification bodies referred to in paragraph 1 shall be accredited in accordance with that paragraph only where they have:

2. 第 1 項所定之認證機構應依該項規定通過認證，但必須符合以下要件：

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<sup>1</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

歐洲議會及歐盟理事會 2008 年 7 月 9 日第 765/2008 規則制定關於產品銷售認證及市場監管之要求，並廢止第 339/93 號歐盟規則（官方公報 L 類，2008 年 8 月 13 日，第 30 頁）。

(a) demonstrated their independence and expertise in relation to the subject-matter of the certification to the satisfaction of the competent supervisory authority;

(a) 證明其具備所涉及認證事件之獨立性及專業性至主管監管機關滿意；

(b) undertaken to respect the criteria referred to in Article 42(5) and approved by the supervisory authority which is competent pursuant to Article 55 or 56 or by the Board pursuant to Article 63;

(b) 承諾會遵守第 42 條第 5 項所定之標準，並經主管監管機關依第 55 條或第 56 條規定、或經委員會依第 63 條規定核准；

(c) established procedures for the issuing, periodic review and withdrawal of data protection certification, seals and marks;

(c) 建立資料保護認證、資料保護標章及標誌的核准、定期審查及撤回之程序；

(d) established procedures and structures to handle complaints about infringements of the certification or the manner in which the certification has been, or is being, implemented by the controller or processor, and to make those procedures and structures transparent to data subjects and the public; and

(d) 建立處理申訴之程序及組織，以處理違反資料保護認證或控管者或處理者執行之方式已違反或正違反資料保護認證之申訴，並向資料主體及公眾公開該等程序及組織；及

(e) demonstrated, to the satisfaction of the competent supervisory authority, that their tasks and duties do not result in a conflict of interests.

(e) 證明其任務及責任不會產生利害衝突至主管監管機關滿意。

3. The accreditation of certification bodies as referred to in paragraphs 1 and 2 of this Article shall take place on the basis of criteria approved by the supervisory authority which is competent pursuant to Article 55 or 56

or by the Board pursuant to Article 63. In the case of accreditation pursuant to point (b) of paragraph 1 of this Article, those requirements shall complement those envisaged in Regulation (EC) No 765/2008 and the technical rules that describe the methods and procedures of the certification bodies.

3. 本條第 1 項及第 2 項所定認證機構之認證應由主管監管機關依據第 55 條或第 56 條規定或由委員會依第 63 條規定依其核准之標準定之。依據本條第 1 項第 b 點之認證，該等要件應與第 765/2008 號規則及規範認證機構之方法及程序之技術規則相一致。

4. The certification bodies referred to in paragraph 1 shall be responsible for the proper assessment leading to the certification or the withdrawal of such certification without prejudice to the responsibility of the controller or processor for compliance with this Regulation. The accreditation shall be issued for a maximum period of five years and may be renewed on the same conditions provided that the certification body meets the requirements set out in this Article.

4. 第 1 項所定之認證機構應負責對於認證及撤回認證進行適當之評估，但不損及控管者或處理者遵守本規則之責任。認證最長期限為 5 年，且得在相同要件下更新，但該認證機構應符合本條所定之要求。

5. The certification bodies referred to in paragraph 1 shall provide the competent supervisory authorities with the reasons for granting or withdrawing the requested certification.

5. 第一項所定之認證機構應向主管監管機關提供核准或撤回認證之理由。

6. The requirements referred to in paragraph 3 of this Article and the criteria referred to in Article 42(5) shall be made public by the supervisory authority in an easily accessible form. The supervisory authorities shall also transmit those requirements and criteria to the Board. The Board shall collate all certification mechanisms and data protection seals in a register and shall make them publicly available by any appropriate means.

6. 本條第 3 項所定要件及第 42 條第 5 項所定標準應由監管機關以方便取得之格式公開之。監管機關亦應將該等要件及標準傳送至委員會。委員會應將所有資料保護認證機制與資料保護標章整理登錄，並應以適當方式公開之。

7. Without prejudice to Chapter VIII, the competent supervisory authority or the national accreditation body shall revoke an accreditation of a certification body pursuant to paragraph 1 of this Article where the conditions for the accreditation are not, or are no longer, met or where actions taken by a certification body infringe this Regulation.

7. 在不損及第 8 章規定之情況下，主管監管機關或國家認證機構於欠缺認證要件或不再符合認證要件或認證機構之行為違反本規則之情況下，應依本條第 1 項規定撤銷該認證機構之認證。

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 92 for the purpose of specifying the requirements to be taken into account for the data protection certification mechanisms referred to in Article 42(1).

8. 執委會應有權依據第 92 條規定通過授權法，以具體化第 42 條第 1 項所定資料保護認證機制應考慮的要件。

9. The Commission may adopt implementing acts laying down technical standards for certification mechanisms and data protection seals and marks, and mechanisms to promote and recognise those certification mechanisms, seals and marks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

9. 執委會得通過施行法，為資料保護認證機制與資料保護標章及標誌制定技術性標準，以促進及認可該等資料保護認證機制與資料保護標章及標誌。該等施行法應依照第 93 條第 2 項所定之檢驗程序通過。

## CHAPTER V

### 第五章



*Transfers of personal data to third countries or international organisations*

**個人資料移轉至第三國或國際組織**

*Article 44*

**第 44 條**

**General principle for transfers**

**移轉之一般原則**

Any transfer of personal data which are undergoing processing or are intended for processing after transfer to a third country or to an international organisation shall take place only if, subject to the other provisions of this Regulation, the conditions laid down in this Chapter are complied with by the controller and processor, including for onward transfers of personal data from the third country or an international organisation to another third country or to another international organisation. All provisions in this Chapter shall be applied in order to ensure that the level of protection of natural persons guaranteed by this Regulation is not undermined.

任何經處理或於移轉至第三國或國際組織後將欲處理之個人資料之移轉，僅得於控管者及處理者遵循本章之條件下進行，並符合本規則其他條文，包括從第三國或國際組織所為之進一步移轉。為確保本規則保證之當事人保護程度不受減損，本章所有條文應受適用。

*Article 45*

**第 45 條**

**Transfers on the basis of an adequacy decision**

**基於充足程度保護決定之移轉**

1. A transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the

third country, a territory or one or more specified sectors within that third country, or the international organisation in question ensures an adequate level of protection. Such a transfer shall not require any specific authorisation.

1. 個人資料移轉至第三國或國際組織，僅於執委會決定該第三國、第三國內之領域或特定部門、或國際組織確有充足程度之保護時，方得為之。該移轉不須獲得任何特別授權。

2. When assessing the adequacy of the level of protection, the Commission shall, in particular, take account of the following elements:

2. 於評估保護程度之充足性時，執委會尤其應考量下列因素：

(a) the rule of law, respect for human rights and fundamental freedoms, relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law and the access of public authorities to personal data, as well as the implementation of such legislation, data protection rules, professional rules and security measures, including rules for the onward transfer of personal data to another third country or international organisation which are complied with in that country or international organisation, case-law, as well as effective and enforceable data subject rights and effective administrative and judicial redress for the data subjects whose personal data are being transferred;

(a) 法治、對人權與基本自由之尊重、一般與部門之相關立法，包括有關公共安全、防衛、國家安全及刑法、公務機關對個人資料之接近使用權、及該等立法、資料保護規則、專業規則及安全措施之執行，包括個人資料向其他第三國或國際組織進一步移轉，該其他第三國或國際組織之規則、判例法、及有效且可執行之資料主體權利及個人資料受移轉之資料主體有效之行政與司法救濟；

(b) the existence and effective functioning of one or more independent supervisory authorities in the third country or to which an international organisation is subject, with responsibility for ensuring and enforcing compliance with the data protection rules, including adequate

enforcement powers, for assisting and advising the data subjects in exercising their rights and for cooperation with the supervisory authorities of the Member States; and

(b) 第三國內有一個或以上獨立監管機關之存在及有效運作，或對象為國際組織時，確保及執行資料保護規則之遵守，包括充足之執行權，以協助及建議資料主體行使其權利，並與會員國之監管機關合作；及

(c) the international commitments the third country or international organisation concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems, in particular in relation to the protection of personal data.

(c) 第三國或國際組織所加入之國際協定，或其他因具法律拘束力之合約或辦法、及從其參與多邊或區域體系而生之義務，尤其關於個人資料保護者。

3. The Commission, after assessing the adequacy of the level of protection, may decide, by means of implementing act, that a third country, a territory or one or more specified sectors within a third country, or an international organisation ensures an adequate level of protection within the meaning of paragraph 2 of this Article. The implementing act shall provide for a mechanism for a periodic review, at least every four years, which shall take into account all relevant developments in the third country or international organisation. The implementing act shall specify its territorial and sectoral application and, where applicable, identify the supervisory authority or authorities referred to in point (b) of paragraph 2 of this Article. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 93(2).

3. 執委會於評估保護之充足程度後，得透過施行法決定第三國、第三國內之領域或單一或多數之特定部門、或國際組織依本條第 2 項之方式確保充足程度保護。施行法應提供定期檢驗機制，至少四年一次，並應考量第三國或國際組織之所有相關發展。施行法應特定其適用之領域及部門，且於得適用時，確認監管機關或本條第 2 項第 b 點所稱

之機關。施行法應採行第 93 條第 2 項之檢驗程序。

4. The Commission shall, on an ongoing basis, monitor developments in third countries and international organisations that could affect the functioning of decisions adopted pursuant to paragraph 3 of this Article and decisions adopted on the basis of Article 25(6) of Directive 95/46/EC.

4. 執委會應持續監控如下之第三國與國際組織，亦即：可能影響依本條第 3 項採行之決定、及依歐盟指令第 95/46/EC 號第 25 條第 6 項採行之決定運作之發展。

5. The Commission shall, where available information reveals, in particular following the review referred to in paragraph 3 of this Article, that a third country, a territory or one or more specified sectors within a third country, or an international organisation no longer ensures an adequate level of protection within the meaning of paragraph 2 of this Article, to the extent necessary, repeal, amend or suspend the decision referred to in paragraph 3 of this Article by means of implementing acts without retro-active effect. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2). On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 93(3).

5. 於現有資訊顯示，尤其依本條第 3 項之檢驗，第三國、第三國內之領域或單一或多數之特定部門、或國際組織不再確保本條第 2 項意義下之充足程度保護時，執委會應於必要程度內透過執行不具溯及既往效力之行為，廢除、修正或凍結本條第 3 項。該等施行法應依第 93 條第 2 項之檢驗程序行之。於具正當理由之緊急情形，執委會應依第 93 條第 3 項之程序立即採用可適用之施行法。

6. The Commission shall enter into consultations with the third country or international organisation with a view to remedying the situation giving rise to the decision made pursuant to paragraph 5.

6. 執委會應參與與第三國或國際組織之協商，以救濟依第 5 項作成

決定之情形。

7. A decision pursuant to paragraph 5 of this Article is without prejudice to transfers of personal data to the third country, a territory or one or more specified sectors within that third country, or the international organisation in question pursuant to Articles 46 to 49.

7. 本條第 5 項之決定不損及第 46 條至第 49 條所指向第三國、第三國內之領域及特定部門、及國際組織之個人資料移轉。

8. The Commission shall publish in the *Official Journal of the European Union* and on its website a list of the third countries, territories and specified sectors within a third country and international organisations for which it has decided that an adequate level of protection is or is no longer ensured.

8. 執委會應於歐洲聯盟官方公報及網站上，公布已決定或不再確保具充足程度保護之第三國、第三國內之領域及特定部門、及國際組織之名單。

9. Decisions adopted by the Commission on the basis of Article 25(6) of Directive 95/46/EC shall remain in force until amended, replaced or repealed by a Commission Decision adopted in accordance with paragraph 3 or 5 of this Article.

9. 執委會基於歐盟指令第 95/46/EC 號第 25 條第 6 項採行之決定，於執委會依本條第 3 項或第 5 項決定修改、取代或廢除前，應持續有效。

#### *Article 46*

#### 第 46 條

### **Transfers subject to appropriate safeguards**

#### **須遵守適當保護措施之移轉**

1. In the absence of a decision pursuant to Article 45(3), a controller or processor may transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate

safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

1. 於欠缺第 45 條第 3 項之決定時，控管者或處理者僅於其提供適當保護措施，且資料主體之權利得為執行，並具備有效權利救濟時，始得移轉個人資料至第三國或國際組織。

2. The appropriate safeguards referred to in paragraph 1 may be provided for, without requiring any specific authorisation from a supervisory authority, by:

2. 第 1 項所稱之適當保護措施，於無監管機關為特定授權之情形下，得以下列方式提供：

(a) a legally binding and enforceable instrument between public authorities or bodies;

(a) 與公務機關或機構間有法律拘束力且得執行之辦法；

(b) binding corporate rules in accordance with Article 47;

(b) 第 47 條之有拘束力之企業守則；

(c) standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2);

(c) 執委會依第 93 條第 2 項之檢驗程序採行之標準資料保護條款；

(d) standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2);

(d) 監管機關採行，並由執委會依第 93 條第 2 項之檢驗程序核准之標準資料保護條款；

(e) an approved code of conduct pursuant to Article 40 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or

(e) 依第 40 條經核准之行為守則，及第三國之控管者或處理者有拘束力且可執行之協約，以適用適當保護措施，包括關於資料主體之權利；或

(f) an approved certification mechanism pursuant to Article 42 together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights.

(f) 依第 42 條經核准之驗證機制，及第三國之控管者或處理者有拘束力且可執行之協約，以適用適當保護措施，包括關於資料主體之權利。

3. Subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in paragraph 1 may also be provided for, in particular, by:

3. 第 1 項所稱之適當保護措施，於有主管監管機關為授權之情形下，得以下列方式提供：

(a) contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation; or

(a) 控管者或處理者與第三國或國際組織之個人資料控管者、處理者或接收者間之契約條款；

(b) provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

(b) 納入包括可執行且有效之資料主體權利之公務機關或機構間行政安排之條款。

4. The supervisory authority shall apply the consistency mechanism referred to in Article 63 in the cases referred to in paragraph 3 of this Article.

4. 於本條第 3 項之情形，監管機關應遵循第 63 條之一致性機制。

5. Authorisations by a Member State or supervisory authority on the basis of Article 26(2) of Directive 95/46/EC shall remain valid until amended, replaced or repealed, if necessary, by that supervisory authority. Decisions adopted by the Commission on the basis of Article 26(4) of Directive 95/46/EC shall remain in force until amended, replaced or repealed, if necessary, by a Commission Decision adopted in accordance with paragraph 2 of this Article.

5. 會員國或監管機關依歐盟指令第 95/46/EC 號第 26 條第 2 項之授權，於監管機關認有必要而修改、取代或廢除前，應持續有效。依歐盟指令第 95/46/EC 號第 26 條第 4 項之決定，於執委會認有必要而依本條第 2 項決定修改、取代或廢除前，應持續有效。

#### *Article 47*

#### 第 47 條

### **Binding corporate rules**

### **有拘束力之企業守則**

1. The competent supervisory authority shall approve binding corporate rules in accordance with the consistency mechanism set out in Article 63, provided that they:

1. 於有拘束力之企業守則符合下列條件時，主管監管機關應依第 63 條之一致性機制核准之：

(a) are legally binding and apply to and are enforced by every member concerned of the group of undertakings, or group of enterprises engaged in a joint economic activity, including their employees;

(a) 法律上拘束並由共同經濟活動中之各事業團體或企業團體之成員適用與遵守，包括其員工；

(b) expressly confer enforceable rights on data subjects with regard to the processing of their personal data; and



(b) 明文賦予資料主體關於其個人資料處理可執行之權利；及

(c) fulfil the requirements laid down in paragraph 2.

(c) 符合第 2 項之要求。

2. The binding corporate rules referred to in paragraph 1 shall specify at least:

2. 第 1 項所稱有拘束力之企業守則至少應特定：

(a) the structure and contact details of the group of undertakings, or group of enterprises engaged in a joint economic activity and of each of its members;

(a) 共同經濟活動中之事業團體或企業團體及其各成員之組織與聯絡方式；

(b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question;

(b) 資料移轉或一系列移轉，包括個人資料之類型、處理之類型及目的、受影響之資料主體類型、及該第三國之識別；

(c) their legally binding nature, both internally and externally;

(c) 其內部及外部具合法拘束力之本質；

(d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the binding corporate rules;

(d) 一般資料保護原則之適用，尤其目的限制、資料最少蒐集原則、資料品質、設計或預設資料保護、處理之法律依據、特殊類型個人資

料之處理、確保資料安全之措施、及進一步移轉至不受具拘束力之企業守則所拘束之機構時之要求；

(e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules;

(e) 資料主體關於處理之權利及行使該等權利之方式，包括不得僅受自動化處理決定之權利（含第 22 條之建檔）、依第 79 條向主管監管機關及會員國之管轄法院提起申訴、及如適合時，因有拘束力之企業守則之侵害而獲得補償之權利；

(f) the acceptance by the controller or processor established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member concerned not established in the Union; the controller or the processor shall be exempt from that liability, in whole or in part, only if it proves that that member is not responsible for the event giving rise to the damage;

(f) 設立於會員國之控管者或處理者承受其歐盟境外之成員任何違反有拘束力之企業守則時之責任；控管者或處理者應僅於證明該成員對造成損害結果不負責任時，全部或部分免除責任；

(g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in addition to Articles 13 and 14;

(g) 有拘束力之企業守則之資訊，尤其本項第 d、e 及 f 點所稱之規定，如何於第 13 條及第 14 條外提供予資料主體；

(h) the tasks of any data protection officer designated in accordance with Article 37 or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the group of

undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling;

(h) 依第 37 條受指定之任何資料保護員、或共同經濟活動中之事業團體或企業團體內，其他任何負責監控有拘束力之企業守則之遵守情形、及監督培訓及申訴處理之人或實體之職務；

(i) the complaint procedures;

(i) 申訴程序；

(j) the mechanisms within the group of undertakings, or group of enterprises engaged in a joint economic activity for ensuring the verification of compliance with the binding corporate rules. Such mechanisms shall include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. Results of such verification should be communicated to the person or entity referred to in point (h) and to the board of the controlling undertaking of a group of undertakings, or of the group of enterprises engaged in a joint economic activity, and should be available upon request to the competent supervisory authority;

(j) 共同經濟活動中之事業團體或企業團體確保有拘束力之企業守則遵循之驗證機制。該等機制應包括資料保護審計及確保糾正措施以保護資料主體權利之方法。該等驗證之結果應向第 h 點所稱之個人或實體及共同經濟活動中之事業團體或企業團體之控管階層溝通，並應於主管監管機關請求時提供；

(k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority;

(k) 報告及紀錄規範之變更及向監管機關報告該等變更；

(l) the cooperation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, or group of enterprises engaged in a joint economic activity, in particular by making available to the supervisory authority the results of verifications of the measures referred to in point (j);

(l) 與監管機關之合作機制，以確保任何共同經濟活動中之事業團體或企業團體之成員遵循，尤其是監管機關請求依第 j 點措施驗證之結果時，應予提供；

(m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings, or group of enterprises engaged in a joint economic activity is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules; and

(m) 於共同經濟活動中之事業團體或企業團體之成員可能涉及對有拘束力之企業守則所保證者有實質不利影響時，向主管監管機關報告任何法律要求之機制；

(n) the appropriate data protection training to personnel having permanent or regular access to personal data.

(n) 針對永久或定期接觸個人資料之人員之適當資料保護訓練。

3. The Commission may specify the format and procedures for the exchange of information between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 93(2).

3. 執委會得特定本條意義下有拘束力之企業守則關於控管者、處理者及監管機關間交換資訊之形式與程序。該等執行規範應符合第 93 條第 2 項設定之檢驗程序。

#### *Article 48*

#### 第 48 條

### **Transfers or disclosures not authorised by Union law**

#### **未獲歐盟法授權之移轉或揭露**

Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a controller or processor to transfer

or disclose personal data may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State, without prejudice to other grounds for transfer pursuant to this Chapter.

第三國任何法院或法庭裁判及任何行政機關決定，如有要求控管者或處理者移轉或揭露個人資料者，僅得在基於有效存在於請求之第三國及歐盟或會員國間之國際協約，如雙邊法律協助條約，且不損及本章所定移轉之其他法律依據時，始得獲承認或可得執行。

#### *Article 49*

#### 第 49 條

### **Derogations for specific situations**

#### **特定情形下之例外**

1. In the absence of an adequacy decision pursuant to Article 45(3), or of appropriate safeguards pursuant to Article 46, including binding corporate rules, a transfer or a set of transfers of personal data to a third country or an international organisation shall take place only on one of the following conditions:

1. 於欠缺第 45 條第 3 項之充足程度保護之決定、或欠缺第 46 條之適當保護措施時，包括有拘束力之企業守則、個人資料之移轉或一系列移轉至第三國或國際組織，僅應於符合下列條件時進行：

(a) the data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards;

(a) 資料主體於受關於因欠缺充足程度保護決定及適當保護措施，該等移轉對資料主體造成之可能風險通知後，已明確同意計畫之移轉；

(b) the transfer is necessary for the performance of a contract between the

data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request;

(b) 移轉對履行資料主體與控管者間契約、或依資料主體之請求執行契約前之措施為必要；

(c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person;

(c) 移轉對締結或履行控管者與其他自然人或法人間，基於資料主體之利益所締結之契約為必要；

(d) the transfer is necessary for important reasons of public interest;

(d) 移轉對公共利益之重要原因為必要；

(e) the transfer is necessary for the establishment, exercise or defence of legal claims;

(e) 移轉對建構、行使或防禦法律上之請求為必要；

(f) the transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent;

(f) 於資料主體身體上或法律上無法為同意之表示時，移轉對保護資料主體之重要利益為必要；

(g) the transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by Union or Member State law for consultation are fulfilled in the particular case.

(g) 移轉係依據歐盟或會員國法登記，意圖提供公眾信息且開放予一般公眾或任何得舉證具合法利益者諮詢，但僅限於特定情形中歐盟或會員國法設定之諮詢條件獲滿足之程度。

Where a transfer could not be based on a provision in Article 45 or 46, including the provisions on binding corporate rules, and none of the derogations for a specific situation referred to in the first subparagraph of this paragraph is applicable, a transfer to a third country or an international organisation may take place only if the transfer is not repetitive, concerns only a limited number of data subjects, is necessary for the purposes of compelling legitimate interests pursued by the controller which are not overridden by the interests or rights and freedoms of the data subject, and the controller has assessed all the circumstances surrounding the data transfer and has on the basis of that assessment provided suitable safeguards with regard to the protection of personal data. The controller shall inform the supervisory authority of the transfer. The controller shall, in addition to providing the information referred to in Articles 13 and 14, inform the data subject of the transfer and on the compelling legitimate interests pursued.

於移轉無法符合第 45 條或第 46 條之規定，包括有拘束力之企業守則之規定，且無法適用本項第 1 款所稱之任何特定例外情形時，向第三國或國際組織之移轉僅於該移轉非重複性、僅影響有限數量之資料主體，對控管者所追求之合法目的為必要而不凌駕於資料主體之利益或權利及自由，且控管者已評估資料移轉之所有環境，而立於評估對個人資料保護為適合保護措施之基礎時，方得進行。控管者應將移轉通知監管機關。於第 13 條及第 14 條提供資訊之情形，控管者應將移轉及追求之合法利益通知資料主體。

2. A transfer pursuant to point (g) of the first subparagraph of paragraph 1 shall not involve the entirety of the personal data or entire categories of the personal data contained in the register. Where the register is intended for consultation by persons having a legitimate interest, the transfer shall be made only at the request of those persons or if they are to be the recipients.

2. 第 1 項第 1 款第 g 點之移轉不得涉及全部個人資料或登記內個人資料之所有分類。於由具合法利益者為諮詢而登記時，該移轉僅得依其請求或其為接收者之情形為之。

3. Points (a), (b) and (c) of the first subparagraph of paragraph 1 and the second subparagraph thereof shall not apply to activities carried out by public authorities in the exercise of their public powers.

3. 第 1 項第 1 款第 a、b、及 c 點及第 2 款不適用於公務機關執行公權力之活動。

4. The public interest referred to in point (d) of the first subparagraph of paragraph 1 shall be recognised in Union law or in the law of the Member State to which the controller is subject.

4. 第 1 項第 1 款第 d 點之公共利益應為歐盟法或控管者受拘束之會員國法所承認者。

5. In the absence of an adequacy decision, Union or Member State law may, for important reasons of public interest, expressly set limits to the transfer of specific categories of personal data to a third country or an international organisation. Member States shall notify such provisions to the Commission.

5. 於欠缺充足程度保護之決定之情形下，歐盟或會員國法得基於公益之重要原因，明訂特殊類型之個人資料移轉至第三國或國際組織之限制。會員國應向執委會通知該等規定。

6. The controller or processor shall document the assessment as well as the suitable safeguards referred to in the second subparagraph of paragraph 1 of this Article in the records referred to in Article 30.

6. 控管者或處理者應於第 30 條所稱之紀錄中，記錄本條第 1 項第 2 款所稱評估及適當之保護。

## *Article 50*

### *第 50 條*

## **International cooperation for the protection of personal data**

### **個人資料保護之國際合作**



In relation to third countries and international organisations, the Commission and supervisory authorities shall take appropriate steps to:

對於第三國及國際組織，執委會及監管機關應採取適當之措施：

(a) develop international cooperation mechanisms to facilitate the effective enforcement of legislation for the protection of personal data;

(a) 發展國際合作機制以促進有效執行個人資料保護之立法；

(b) provide international mutual assistance in the enforcement of legislation for the protection of personal data, including through notification, complaint referral, investigative assistance and information exchange, subject to appropriate safeguards for the protection of personal data and other fundamental rights and freedoms;

(b) 提供執行個人資料保護之立法上之國際互助，包括透過關於個人資料保護之適當措施與其他基本權利及自由之通知、申訴轉介、調查協助及資訊交換；

(c) engage relevant stakeholders in discussion and activities aimed at furthering international cooperation in the enforcement of legislation for the protection of personal data;

(c) 使利害關係人參與以進一步執行個人資料保護之立法上之國際合作為目標討論及活動；

(d) promote the exchange and documentation of personal data protection legislation and practice, including on jurisdictional conflicts with third countries.

(d) 提升個人資料保護立法與實務之交換與文件紀錄，包括與第三國之管轄衝突。

## CHAPTER VI

### 第六章

## *Independent supervisory authorities*

### **獨立監管機關**

#### Section 1

#### 第一節

### **Independent status**

#### **獨立地位**

#### *Article 51*

#### 第 51 條

### **Supervisory authority**

#### **監管機關**

1. Each Member State shall provide for one or more independent public authorities to be responsible for monitoring the application of this Regulation, in order to protect the fundamental rights and freedoms of natural persons in relation to processing and to facilitate the free flow of personal data within the Union ('supervisory authority').

1. 各會員國應設立至少一個獨立公務機關，職司本規則適用之監控，以保護當事人有關個人資料處理之基本權與自由及促進歐盟內個人資料之自由流動（「監管機關」）。

2. Each supervisory authority shall contribute to the consistent application of this Regulation throughout the Union. For that purpose, the supervisory authorities shall cooperate with each other and the Commission in accordance with Chapter VII.

2. 各監管機關應致力於本規則於歐盟之一致適用。為此，監管機關應依第七章之規定互相及與執委會合作。

3. Where more than one supervisory authority is established in a Member State, that Member State shall designate the supervisory authority which

is to represent those authorities in the Board and shall set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism referred to in Article 63.

3. 於一會員國內設立一個以上之監管機關時，該會員國應指定其一於委員會代表各監管機關，並應建立機制，以確保其他機關遵循與第63條所稱之一致性機制有關之規範。

4. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to this Chapter, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

4.各會員國應於2018年5月25日前通報執委會其依本章所採行之法律條文，並應通報影響前揭法律條文之任何後續修正，不得遲延。

#### *Article 52*

#### 第52條

### **Independence**

#### **獨立**

1. Each supervisory authority shall act with complete independence in performing its tasks and exercising its powers in accordance with this Regulation.

1. 各監管機關應依本規則完全獨立行使職權。

2. The member or members of each supervisory authority shall, in the performance of their tasks and exercise of their powers in accordance with this Regulation, remain free from external influence, whether direct or indirect, and shall neither seek nor take instructions from anybody.

2. 各監管機關之成員應依本規則行使職權，不受直接或間接之外部干擾，並不應依循任何人之指示。

3. Member or members of each supervisory authority shall refrain from any action incompatible with their duties and shall not, during their term

of office, engage in any incompatible occupation, whether gainful or not.

3. 各監管機關之成員不得為與其職務不相容之行為，並不得於其任期內從事任何不相容之兼職，有無報酬不在所問。

4. Each Member State shall ensure that each supervisory authority is provided with the human, technical and financial resources, premises and infrastructure necessary for the effective performance of its tasks and exercise of its powers, including those to be carried out in the context of mutual assistance, cooperation and participation in the Board.

4. 各會員國應確保各監管機關具備有效行使職權所需之人力、技術及財務資源、辦公室以及基礎設施，包括於委員會因互助、合作及參與所需執行者。

5. Each Member State shall ensure that each supervisory authority chooses and has its own staff which shall be subject to the exclusive direction of the member or members of the supervisory authority concerned.

5. 各會員國應確保各監管機關選擇並擁有自身之員工，且員工應受該監管機關成員排他之指示。

6. Each Member State shall ensure that each supervisory authority is subject to financial control which does not affect its independence and that it has separate, public annual budgets, which may be part of the overall state or national budget.

6. 各會員國應確保各監管機關受財務控制，但不得影響其獨立，且應有單獨、公開之年度預算，並得作為國家或聯邦整體預算之一部分。

### *Article 53*

### 第 53 條

## **General conditions for the members of the supervisory authority**

### **監管機關成員之一般條款**

1. Member States shall provide for each member of their supervisory authorities to be appointed by means of a transparent procedure by:

1. 會員國應使其監管機關之各成員由下列單位本於透明程序所任命：

— their parliament;

— their government;

— their head of State; or

— an independent body entrusted with the appointment under Member State law.

— 國會；

— 政府；

— 國家元首；或

— 依會員國法委託設立之獨立機構。

2. Each member shall have the qualifications, experience and skills, in particular in the area of the protection of personal data, required to perform its duties and exercise its powers.

2. 各成員應具行使職權之資格、經驗及技巧，特別是關於個人資料保護之領域。

3. The duties of a member shall end in the event of the expiry of the term of office, resignation or compulsory retirement, in accordance with the law of the Member State concerned.

3. 成員之職責應依各該會員國法於其任期結束、解任或強制退休時終止。

4. A member shall be dismissed only in cases of serious misconduct or if the member no longer fulfils the conditions required for the performance of the duties.

4. 僅於有嚴重不當行為或成員不再符合執行職務之資格時，得解任成員。

*Article 54*

第 54 條

**Rules on the establishment of the supervisory authority**

**監管機關設立之規則**

1. Each Member State shall provide by law for all of the following:

1. 各會員國應以法律規定下列所有事項：

(a) the establishment of each supervisory authority;

(a) 各監管機關之設立；

(b) the qualifications and eligibility conditions required to be appointed as member of each supervisory authority;

(b) 得受任命為各監管機關成員所需之資格與條件。

(c) the rules and procedures for the appointment of the member or members of each supervisory authority;

(c) 任命各監管機關成員之規則與程序；

(d) the duration of the term of the member or members of each supervisory authority of no less than four years, except for the first appointment after 24 May 2016, part of which may take place for a shorter period where that is necessary to protect the independence of the supervisory authority by means of a staggered appointment procedure;

(d) 各監管機關成員之任期不得少於四年。但為保障監管機關獨立性之必要而採取交錯任期之方式，使 2016 年 5 月 24 日後第一次任命之任期較短者，不在此限；

(e) whether and, if so, for how many terms the member or members of

each supervisory authority is eligible for reappointment;

(e) 各監管機關成員是否得受再任命，及若是，其任期數；

(f) the conditions governing the obligations of the member or members and staff of each supervisory authority, prohibitions on actions, occupations and benefits incompatible therewith during and after the term of office and rules governing the cessation of employment.

(f) 各監管機關成員及工作人員之義務條款、禁止其任期內與任期後與其職務不相容之行為、兼職及利益、以及停職之規範。

2. The member or members and the staff of each supervisory authority shall, in accordance with Union or Member State law, be subject to a duty of professional secrecy both during and after their term of office, with regard to any confidential information which has come to their knowledge in the course of the performance of their tasks or exercise of their powers. During their term of office, that duty of professional secrecy shall in particular apply to reporting by natural persons of infringements of this Regulation.

2. 依歐盟或會員國法，各監管機關之成員及工作人員應於任期內及任期後，對因行使職權知悉之任何機密資料負專業保密義務。於任期內，其專業保密義務尤其應適用於本規則之當事人侵害報告。

## Section 2

### 第 2 節

#### **Competence, tasks and powers**

#### 權限、職務及權力

#### *Article 55*

#### 第 55 條

#### **Competence**

#### 權限

1. Each supervisory authority shall be competent for the performance of the tasks assigned to and the exercise of the powers conferred on it in accordance with this Regulation on the territory of its own Member State.

1. 各監管機關應有權於自己之會員國領域內依本規則執行指定之職務並行使權力。

2. Where processing is carried out by public authorities or private bodies acting on the basis of point (c) or (e) of Article 6(1), the supervisory authority of the Member State concerned shall be competent. In such cases Article 56 does not apply.

2. 於公務機關或私人機構依第 6 條 1 項第 c 或 e 點執行處理時，有關之會員國監管機關應有權限。於該等情形，不適用第 56 條規定。

3. Supervisory authorities shall not be competent to supervise processing operations of courts acting in their judicial capacity.

3. 監管機關不應有權監督法院就其司法權所為之處理執行。

### *Article 56*

#### *第 56 條*

### **Competence of the lead supervisory authority**

#### **領導監管機關之權限**

1. Without prejudice to Article 55, the supervisory authority of the main establishment or of the single establishment of the controller or processor shall be competent to act as lead supervisory authority for the cross-border processing carried out by that controller or processor in accordance with the procedure provided in Article 60.

1. 於不損及第 55 條之前提下，該控管者或處理者之主要分支機構或該單一支機構之監管機關，應有權作為該控管者或處理者依第 60 條程序為跨境處理時之領導監管機關。

2. By derogation from paragraph 1, each supervisory authority shall be



competent to handle a complaint lodged with it or a possible infringement of this Regulation, if the subject matter relates only to an establishment in its Member State or substantially affects data subjects only in its Member State.

2. 如標的事項僅涉及該會員國之單一分支機構、或受嚴重影響之資料主體僅在該會員國時，各監管機關應有權處理提交至其之申訴、或對本規則可能之違反，不受第 1 項之限制。

3. In the cases referred to in paragraph 2 of this Article, the supervisory authority shall inform the lead supervisory authority without delay on that matter. Within a period of three weeks after being informed the lead supervisory authority shall decide whether or not it will handle the case in accordance with the procedure provided in Article 60, taking into account whether or not there is an establishment of the controller or processor in the Member State of which the supervisory authority informed it.

3. 於本條第二項之情形，監管機關應通知領導監管機關該事項，不得無故延遲。領導監管機關應於受通知起三週內，決定是否依第 60 條之程序處理該事項，並應考量監管機關通知之會員國內是否有控管者或處理者之分支機構。

4. Where the lead supervisory authority decides to handle the case, the procedure provided in Article 60 shall apply. The supervisory authority which informed the lead supervisory authority may submit to the lead supervisory authority a draft for a decision. The lead supervisory authority shall take utmost account of that draft when preparing the draft decision referred to in Article 60(3).

4. 於領導監管機關決定處理該事項時，應遵循第 60 條之程序。通知領導監管機關之監管機關得提交裁決草案至領導監管機關。領導監管機關於依第 60 條第 3 項擬訂裁決時，應盡可能考慮該草案。

5. Where the lead supervisory authority decides not to handle the case, the supervisory authority which informed the lead supervisory authority shall handle it according to Articles 61 and 62.

5. 於領導監管機關決定不處理該事項時，通知領導監管機關之監管機關應依第 61 條及第 62 條處理。

6. The lead supervisory authority shall be the sole interlocutor of the controller or processor for the cross-border processing carried out by that controller or processor.

6. 領導監管機關應為控管者或處理者於其執行跨境處理時，唯一之溝通對口。

## *Article 57*

### 第 57 條

#### **Tasks**

#### **職務**

1. Without prejudice to other tasks set out under this Regulation, each supervisory authority shall on its territory:

1. 於不損及本規則設立之其他職務之前提下，各監管機關應於其領域內：

(a) monitor and enforce the application of this Regulation;

(a) 監控及執行本規則之適用；

(b) promote public awareness and understanding of the risks, rules, safeguards and rights in relation to processing. Activities addressed specifically to children shall receive specific attention;

(b) 提升公眾對有關處理之風險、規則、保護措施及權利之意識及理解。專門針對兒童之活動應受特別之注意；

(c) advise, in accordance with Member State law, the national parliament, the government, and other institutions and bodies on legislative and administrative measures relating to the protection of natural persons' rights and freedoms with regard to processing;

(c) 依會員國法建議國會、政府及其他機關或機構，關於涉及處理之當事人權利及自由保護之立法及行政措施；

(d) promote the awareness of controllers and processors of their obligations under this Regulation;

(d) 提升控管者及處理者對其於本規則之義務之意識；

(e) upon request, provide information to any data subject concerning the exercise of their rights under this Regulation and, if appropriate, cooperate with the supervisory authorities in other Member States to that end;

(e) 基於請求，提供關於本規則下權利行使之資料予任何資料主體，若適合，與其他會員國之監管機關合作提供；

(f) handle complaints lodged by a data subject, or by a body, organisation or association in accordance with Article 80, and investigate, to the extent appropriate, the subject matter of the complaint and inform the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;

(f) 處理資料主體或機構、組織或協會依第 80 條之申訴，並適當程度調查該申訴事項，於合理時間內通知申訴人調查之進度與結果，尤其於進一步之調查或與其他監管機關之協調為必要時；

(g) cooperate with, including sharing information and provide mutual assistance to, other supervisory authorities with a view to ensuring the consistency of application and enforcement of this Regulation;

(g) 與其他監管機關合作，包括分享資訊及互助，以確保本規則適用與執行之一致性；

(h) conduct investigations on the application of this Regulation, including on the basis of information received from another supervisory authority or other public authority;

- (h) 執行本規則適用之調查，包括其他監管機關或其他公務機關所提供資訊之基礎；
- (i) monitor relevant developments, insofar as they have an impact on the protection of personal data, in particular the development of information and communication technologies and commercial practices;
- (i) 於相關發展影響個人資料之保護時監控之，尤其是資訊與通訊科技與商業慣例之發展；
- (j) adopt standard contractual clauses referred to in Article 28(8) and in point (d) of Article 46(2);
- (j) 通過第 28 條第 8 項及第 46 條第 2 項第 d 點所稱之定型化契約條款；
- (k) establish and maintain a list in relation to the requirement for data protection impact assessment pursuant to Article 35(4);
- (k) 依第 35 條第 4 項設立並維持與資料保護影響評估之要求相關之清單；
- (l) give advice on the processing operations referred to in Article 36(2);
- (l) 提供第 36 條第 2 項所稱處理活動之建議；
- (m) encourage the drawing up of codes of conduct pursuant to Article 40(1) and provide an opinion and approve such codes of conduct which provide sufficient safeguards, pursuant to Article 40(5);
- (m) 依第 40 條第 1 項鼓勵制定行為守則，並依第 40 條第 5 項提供意見及核准提供充足保護措施之行為守則；
- (n) encourage the establishment of data protection certification mechanisms and of data protection seals and marks pursuant to Article 42(1), and approve the criteria of certification pursuant to Article 42(5);
- (n) 鼓勵依第 42 條第 1 項設立資料保護認證機制及資料保護標章與標誌，並依 42 條第 5 項核准認證之標準；

(o) where applicable, carry out a periodic review of certifications issued in accordance with Article 42(7);

(o) 於得適用時，依第 42 條第 7 項定期檢驗頒發之認證；

(p) draft and publish the criteria for accreditation of a body for monitoring codes of conduct pursuant to Article 41 and of a certification body pursuant to Article 43;

(p) 草擬並公布第 41 條監督行為守則之機構及第 43 條認證機構之認證標準；

(q) conduct the accreditation of a body for monitoring codes of conduct pursuant to Article 41 and of a certification body pursuant to Article 43;

(q) 進行第 41 條監督行為守則之機構及第 43 條認證機構之認證；

(r) authorise contractual clauses and provisions referred to in Article 46(3);

(r) 授權第 46 條第 3 項所稱之契約條款及規定；

(s) approve binding corporate rules pursuant to Article 47;

(s) 依第 47 條核准有拘束力之企業守則；

(t) contribute to the activities of the Board;

(t) 協助委員會之活動；

(u) keep internal records of infringements of this Regulation and of measures taken in accordance with Article 58(2); and

(u) 依第 58 條第 2 項保存違反規則及採取措施之內部紀錄；及

(v) fulfil any other tasks related to the protection of personal data.

(v) 完成任何與個人資料保護相關之職務。

2. Each supervisory authority shall facilitate the submission of complaints referred to in point (f) of paragraph 1 by measures such as a complaint

submission form which can also be completed electronically, without excluding other means of communication.

2. 各監管機關應透過諸如亦得單以電子方式完成而不須其他溝通方式之申訴提交表格等方式，促進第 1 項第 f 點之申訴提交。

3. The performance of the tasks of each supervisory authority shall be free of charge for the data subject and, where applicable, for the data protection officer.

3. 各監管機關之職務行使不應向資料主體收取費用，且於得適用時，亦不應向資料保護員收取之。

4. Where requests are manifestly unfounded or excessive, in particular because of their repetitive character, the supervisory authority may charge a reasonable fee based on administrative costs, or refuse to act on the request. The supervisory authority shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

4. 於請求顯無理由或過量時，尤其於重複情形，監管機關得基於行政成本收取合理費用，或拒絕處理請求。監管機關應負請求顯無理由或請求過量之舉證責任。

## *Article 58*

### *第 58 條*

#### **Powers**

#### **權力**

1. Each supervisory authority shall have all of the following investigative powers:

1. 各監管機關應有下列全部調查之權力：

(a) to order the controller and the processor, and, where applicable, the controller's or the processor's representative to provide any information it requires for the performance of its tasks;

(a) 命令控管者、處理者，以及若有控管者或處理者之代表時，該等代表提供任何其執行任務所需之資訊；

(b) to carry out investigations in the form of data protection audits;

(b) 以資料保護查核之形式進行調查；

(c) to carry out a review on certifications issued pursuant to Article 42(7);

(c) 進行依第 42 條第 7 項核發之認證的審查；

(d) to notify the controller or the processor of an alleged infringement of this Regulation;

(d) 對聲稱本規則被違反時通知控管者或處理者；

(e) to obtain, from the controller and the processor, access to all personal data and to all information necessary for the performance of its tasks;

(e) 自控管者或處理者獲得接近使用個人資料以及執行其任務所需之所有資訊；

(f) to obtain access to any premises of the controller and the processor, including to any data processing equipment and means, in accordance with Union or Member State procedural law.

(f) 依歐盟或會員國程序法，得進入控管者或處理者之任何辦公處所，包括接近使用任何資料處理設備及方式。

2. Each supervisory authority shall have all of the following corrective powers:

2. 各監管機關應有下列全部之糾正權力：

(a) to issue warnings to a controller or processor that intended processing operations are likely to infringe provisions of this Regulation;

(a) 當欲進行之資料處理可能會違反本規則之規定時，向控管者或處理者發布警告；

(b) to issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation;

(b) 當資料處理已違反本規則之規定時，對控管者或處理者發布告誡；

(c) to order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation;

(c) 命令控管者或處理者遵循資料主體行使其依本規則之權利的要求；

(d) to order the controller or processor to bring processing operations into compliance with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period;

(d) 命令控管者或處理者以適當之特定方法及於特定期間內使資料處理符合本規則之規定；

(e) to order the controller to communicate a personal data breach to the data subject;

(e) 命令控管者向資料主體通知個人資料之侵害；

(f) to impose a temporary or definitive limitation including a ban on processing;

(f) 課予暫時或終局之限制，包括對資料處理之禁令；

(g) to order the rectification or erasure of personal data or restriction of processing pursuant to Articles 16, 17 and 18 and the notification of such actions to recipients to whom the personal data have been disclosed pursuant to Article 17(2) and Article 19;

(g) 命令依第 16 條、第 17 條及第 18 條對個人資料之更正或刪除，或對資料處理之限制，以及對個人資料依照第 17 條第 2 項及第 19 條被揭露之接收者就該等行動之通知；

(h) to withdraw a certification or to order the certification body to



withdraw a certification issued pursuant to Articles 42 and 43, or to order the certification body not to issue certification if the requirements for the certification are not or are no longer met;

(h) 撤銷或命令認證機構撤銷依第 42 條及第 43 條所為之認證，或若認證之要件不具備或不再具備時，命令認證機構不得核發認證；

(i) to impose an administrative fine pursuant to Article 83, in addition to, or instead of measures referred to in this paragraph, depending on the circumstances of each individual case;

(i) 依個案情形，額外或不以本項所提及之其他方式而依第 83 條處以行政罰鍰；

(j) to order the suspension of data flows to a recipient in a third country or to an international organisation.

(j) 命令對位於第三國之接收者或國際組織停止資料流通。

3. Each supervisory authority shall have all of the following authorisation and advisory powers:

3. 各監管機關應有下列全部之授權及建議權力：

(a) to advise the controller in accordance with the prior consultation procedure referred to in Article 36;

(a) 依第 36 條之事前諮詢程序建議控管者；

(b) to issue, on its own initiative or on request, opinions to the national parliament, the Member State government or, in accordance with Member State law, to other institutions and bodies as well as to the public on any issue related to the protection of personal data;

(b) 對國會、會員國政府、依會員國法對其他公共團體、機構及大眾主動或依請求發布針對任何與個人資料保護相關之議題的意見；

(c) to authorise processing referred to in Article 36(5), if the law of the Member State requires such prior authorisation;

(c) 若會員國法要求事前授權時，授權第 36 條第 5 項所述之資料處理；

(d) to issue an opinion and approve draft codes of conduct pursuant to Article 40(5);

(d) 發布意見並核准第 40 條第 5 項所述之行為守則草案；

(e) to accredit certification bodies pursuant to Article 43;

(e) 依第 43 條委託認證機構；

(f) to issue certifications and approve criteria of certification in accordance with Article 42(5);

(f) 依第 42 條第 5 項發布認證並核准認證之標準；

(g) to adopt standard data protection clauses referred to in Article 28(8) and in point (d) of Article 46(2);

(g) 採用第 28 條第 8 項及第 46 條第 2 項第 d 點所述之標準資料保護條款；

(h) to authorise contractual clauses referred to in point (a) of Article 46(3);

(h) 授權第 46 條第 3 項第 a 點所述之契約條款；

(i) to authorise administrative arrangements referred to in point (b) of Article 46(3);

(i) 授權第 46 條第 3 項第 b 點所述之行政安排；

(j) to approve binding corporate rules pursuant to Article 47.

(j) 依第 47 條核准有拘束力之企業守則。

4. The exercise of the powers conferred on the supervisory authority pursuant to this Article shall be subject to appropriate safeguards, including effective judicial remedy and due process, set out in Union and

Member State law in accordance with the Charter.

4. 監管機關行使本條賦予之權力應有適當保護措施，包括歐盟法及會員國法依憲章所規定之有效之司法救濟及正當程序。

5. Each Member State shall provide by law that its supervisory authority shall have the power to bring infringements of this Regulation to the attention of the judicial authorities and where appropriate, to commence or engage otherwise in legal proceedings, in order to enforce the provisions of this Regulation.

5. 各會員國應有法律規定監管機關應有權力將本規則之違反檢送司法機關，並於適當時開啟或參與司法程序，以執行本規則之規定。

6. Each Member State may provide by law that its supervisory authority shall have additional powers to those referred to in paragraphs 1, 2 and 3. The exercise of those powers shall not impair the effective operation of Chapter VII.

6. 各會員國應有法律規定其監管機關應有第 1 項、第 2 項及第 3 項以外之額外權力。該等權力之實行不應減損第七章之有效性。

#### *Article 59*

#### 第 59 條

### **Activity reports**

#### 活動報告

Each supervisory authority shall draw up an annual report on its activities, which may include a list of types of infringement notified and types of measures taken in accordance with Article 58(2). Those reports shall be transmitted to the national parliament, the government and other authorities as designated by Member State law. They shall be made available to the public, to the Commission and to the Board.

各監管機關應編製年度活動報告，得包括受告知之侵害類型以及依第 58 條第 2 項採取之措施類型清單。該等報告應依會員國法之指定提

交國會、政府及其他有權機關。該等報告應對大眾、執委會及委員會公開。

## *CHAPTER VII*

### *第七章*

#### *Cooperation and consistency*

#### *合作及一致性*

##### *Section 1*

##### *第 1 節*

#### **Cooperation**

#### **合作**

##### *Article 60*

##### *第 60 條*

#### **Cooperation between the lead supervisory authority and the other supervisory authorities concerned**

#### **領導監管機關與其他相關監管機關間之合作**

1. The lead supervisory authority shall cooperate with the other supervisory authorities concerned in accordance with this Article in an endeavour to reach consensus. The lead supervisory authority and the supervisory authorities concerned shall exchange all relevant information with each other.

1. 領導監管機關應依本條與其他相關監管機關合作並致力於達成共識。領導監管機關及相關監管機關應彼此交換所有相關之資訊。

2. The lead supervisory authority may request at any time other supervisory authorities concerned to provide mutual assistance pursuant to Article 61 and may conduct joint operations pursuant to Article 62, in

particular for carrying out investigations or for monitoring the implementation of a measure concerning a controller or processor established in another Member State.

2. 領導監管機關得於任何時候請求其他相關監管機關依第 61 條提供互助，並得依第 62 條採行聯合作業，特別係為了進行調查，或為了監督關於在其他會員國設立之控管者或處理者之措施的施行。

3. The lead supervisory authority shall, without delay, communicate the relevant information on the matter to the other supervisory authorities concerned. It shall without delay submit a draft decision to the other supervisory authorities concerned for their opinion and take due account of their views.

3. 領導監督機關應將該事項之相關資訊傳送予其他相關監管機關，不得遲延。其應提交裁決草案予其他相關監管機關，不得遲延，以獲得其等之意見並適當考量其等之觀點。

4. Where any of the other supervisory authorities concerned within a period of four weeks after having been consulted in accordance with paragraph 3 of this Article, expresses a relevant and reasoned objection to the draft decision, the lead supervisory authority shall, if it does not follow the relevant and reasoned objection or is of the opinion that the objection is not relevant or reasoned, submit the matter to the consistency mechanism referred to in Article 63.

4. 當任一其他相關監管機關在依本條第 3 項受諮詢後四週內表達對該裁決草案相關且合理之異議時，若領導監管機關不遵循該相關且合理之異議，或認為該異議不相關或不合理者，則應將該事項提交予第 63 條所述之一致性機制。

5. Where the lead supervisory authority intends to follow the relevant and reasoned objection made, it shall submit to the other supervisory authorities concerned a revised draft decision for their opinion. That revised draft decision shall be subject to the procedure referred to in paragraph 4 within a period of two weeks.

5. 當領導監管機關欲遵循該相關且合理之異議時，其應提交修訂裁決草案予其他相關監管機關以獲得其等之意見。該修訂裁決草案應受第 4 項所述程序之約束於兩週內為之。

6. Where none of the other supervisory authorities concerned has objected to the draft decision submitted by the lead supervisory authority within the period referred to in paragraphs 4 and 5, the lead supervisory authority and the supervisory authorities concerned shall be deemed to be in agreement with that draft decision and shall be bound by it.

6. 當無任何其他相關監管機關於第 4 項及第 5 項所述之期限內對領導監管機關所提交之裁決草案提出異議者，應視為領導監管機關及相關監管機關同意該裁決草案並應受其拘束。

7. The lead supervisory authority shall adopt and notify the decision to the main establishment or single establishment of the controller or processor, as the case may be and inform the other supervisory authorities concerned and the Board of the decision in question, including a summary of the relevant facts and grounds. The supervisory authority with which a complaint has been lodged shall inform the complainant on the decision.

7. 領導監督機關應依其情形通過該裁決並告知控管者或處理者之主要分支機構或單一支機構，並向其他相關監管機關及委員會通知該裁決，包括扼要之相關事實及理由。受理申訴之監管機關應向申訴人通知該裁決。

8. By derogation from paragraph 7, where a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt the decision and notify it to the complainant and shall inform the controller thereof.

8. 當申訴遭駁回或不予受理時，第 7 項之規定不適用之，受理申訴之監管機關應通過該裁決並將其告知申訴人，並應通知控管者。

9. Where the lead supervisory authority and the supervisory authorities concerned agree to dismiss or reject parts of a complaint and to act on

other parts of that complaint, a separate decision shall be adopted for each of those parts of the matter. The lead supervisory authority shall adopt the decision for the part concerning actions in relation to the controller, shall notify it to the main establishment or single establishment of the controller or processor on the territory of its Member State and shall inform the complainant thereof, while the supervisory authority of the complainant shall adopt the decision for the part concerning dismissal or rejection of that complaint, and shall notify it to that complainant and shall inform the controller or processor thereof.

9. 若領導監管機關及相關監管機關同意駁回或不受理部分申訴而僅對部分申訴採取行動，則應對該事項之每個部分採取個別之裁決。領導監管機關應通過與控管者有關行動相關之裁決，且應將該裁決告知控管者或處理者之主要分支機構或單一分支機構，並應通知申訴人，而申訴人之監管機關應通過關於駁回或不受理該申訴部分之裁決，並應將該裁決告知申訴人且通知控管者或處理者。

10. After being notified of the decision of the lead supervisory authority pursuant to paragraphs 7 and 9, the controller or processor shall take the necessary measures to ensure compliance with the decision as regards processing activities in the context of all its establishments in the Union. The controller or processor shall notify the measures taken for complying with the decision to the lead supervisory authority, which shall inform the other supervisory authorities concerned.

10. 在依第 7 項及第 9 項受告知領導監管機關之裁決後，控管者及處理者應採取必要措施以確保其所有於歐盟境內之分支機構的處理活動皆有遵守該裁決。控管者或處理者應將為遵守該裁決所採取之措施告知領導監管機關，領導監管機關並應通知其他相關監管機關。

11. Where, in exceptional circumstances, a supervisory authority concerned has reasons to consider that there is an urgent need to act in order to protect the interests of data subjects, the urgency procedure referred to in Article 66 shall apply.

11. 若在特殊情況下，相關監管機關有理由認為有緊急必要採取行動

以保護資料主體之利益者，應適用第 66 條所述之緊急程序。

12. The lead supervisory authority and the other supervisory authorities concerned shall supply the information required under this Article to each other by electronic means, using a standardised format.

12. 領導監管機關及其他相關監管機關應使用標準化格式，以電子方式互相提供本條所需之資訊。

### *Article 61*

### 第 61 條

### **Mutual assistance**

### **互助**

1. Supervisory authorities shall provide each other with relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective cooperation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and investigations.

1. 監管機關應提供彼此相關資訊並互助以一致地實施並適用本規則，並應訂定相互有效合作之措施。互助應特別包括資訊要求及監督措施，例如要求進行事前授權及諮詢、檢查及調查。

2. Each supervisory authority shall take all appropriate measures required to reply to a request of another supervisory authority without undue delay and no later than one month after receiving the request. Such measures may include, in particular, the transmission of relevant information on the conduct of an investigation.

2. 各監管機關應採取所有適當措施，不得無故遲延且不遲於收到請求後一個月內，回覆另一監管機關之請求。該等措施特別得包括傳送關於調查行為之相關資訊。



3. Requests for assistance shall contain all the necessary information, including the purpose of and reasons for the request. Information exchanged shall be used only for the purpose for which it was requested.

3. 請求協助應包含所有必要資訊，包括該請求之目的及理由。交換之資訊應僅得用於所請求之目的。

4. The requested supervisory authority shall not refuse to comply with the request unless:

4. 受請求之監管機關不得拒絕接受該請求，除非：

(a) it is not competent for the subject-matter of the request or for the measures it is requested to execute; or

(a) 其無權處理請求之標的或請求執行之措施；或

(b) compliance with the request would infringe this Regulation or Union or Member State law to which the supervisory authority receiving the request is subject.

(b) 接受該請求將違反受請求之監管機關所應遵守之本規則、歐盟法或會員國法。

5. The requested supervisory authority shall inform the requesting supervisory authority of the results or, as the case may be, of the progress of the measures taken in order to respond to the request. The requested supervisory authority shall provide reasons for any refusal to comply with a request pursuant to paragraph 4.

5. 受請求之監管機關應將結果或依其情形將採取之措施的進展狀況通知請求之監管機關，以回應該請求。受請求之監管機關應提供任何拒絕依第 4 項接受請求之理由。

6. Requested supervisory authorities shall, as a rule, supply the information requested by other supervisory authorities by electronic means, using a standardised format.

6. 受請求之監管機關在一般情形應使用標準化格式，以電子方式提

供其他監管機關請求之資訊。

7. Requested supervisory authorities shall not charge a fee for any action taken by them pursuant to a request for mutual assistance. Supervisory authorities may agree on rules to indemnify each other for specific expenditure arising from the provision of mutual assistance in exceptional circumstances.

7. 受請求之監管機關就其依互助之請求採取之任何行動不得收取費用。監管機關得同意就特別情況下提供互助產生之具體支出之互相補償規範。

8. Where a supervisory authority does not provide the information referred to in paragraph 5 of this Article within one month of receiving the request of another supervisory authority, the requesting supervisory authority may adopt a provisional measure on the territory of its Member State in accordance with Article 55(1). In that case, the urgent need to act under Article 66(1) shall be presumed to be met and require an urgent binding decision from the Board pursuant to Article 66(2).

8. 若監管機關不於收到另一監管機關之請求後一個月內提供本條第 5 項所述之資訊，請求之監管機關得依第 55 條第 1 項在該會員國領土內採取臨時措施。在該等情況下，應推定有依第 66 條第 1 項採取行動之迫切需要，並要求委員會依第 66 條第 2 項做出緊急且有拘束力之裁決。

9. The Commission may, by means of implementing acts, specify the format and procedures for mutual assistance referred to in this Article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the Board, in particular the standardised format referred to in paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

9. 執委會得透過施行細則具體規範本條所述之互助的格式及程序，以及監管機關相互間及監管機關與委員會間以電子方式資訊交換之安排，特別是本條第 6 項所述之標準化格式。該施行細則應通過第

93 條第 2 項所述之檢驗程序。

*Article 62*

第 62 條

**Joint operations of supervisory authorities**

**監管機關之聯合作業**

1. The supervisory authorities shall, where appropriate, conduct joint operations including joint investigations and joint enforcement measures in which members or staff of the supervisory authorities of other Member States are involved.

1. 監管機關應斟酌情形採取聯合作業，包括聯合調查及聯合執行措施，即包含其他會員國之監管機關的成員或職員。

2. Where the controller or processor has establishments in several Member States or where a significant number of data subjects in more than one Member State are likely to be substantially affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in joint operations. The supervisory authority which is competent pursuant to Article 56(1) or (4) shall invite the supervisory authority of each of those Member States to take part in the joint operations and shall respond without delay to the request of a supervisory authority to participate.

2. 若控管者或處理者在數個會員國有分支機構，或在一個以上會員國之大量資料主體可能受處理活動之實質影響，各會員國之監管機關應有權參加聯合作業。依第 56 條第 1 項或第 4 項之主管監管機關應邀請其中各會員國之監管機關參加聯合作業，並應立即回應監管機關參加之要求。

3. A supervisory authority may, in accordance with Member State law, and with the seconding supervisory authority's authorisation, confer powers, including investigative powers on the seconding supervisory authority's members or staff involved in joint operations or, in so far as

the law of the Member State of the host supervisory authority permits, allow the seconding supervisory authority's members or staff to exercise their investigative powers in accordance with the law of the Member State of the seconding supervisory authority. Such investigative powers may be exercised only under the guidance and in the presence of members or staff of the host supervisory authority. The seconding supervisory authority's members or staff shall be subject to the Member State law of the host supervisory authority.

3. 監管機關得依會員國法及參加監管機關之授權對參加監管機關參與聯合作業之成員或職員授予權力，包括調查權，或在主辦監管機關所屬會員國之法律許可之範圍內，允許參加監管機關之成員或職員依參加監管機關會員國法行使調查權。該等調查權僅得在主辦監管機關成員或職員之當面指導下執行。參加監管機關之成員或職員應遵守主辦監管機關之會員國法。

4. Where, in accordance with paragraph 1, staff of a seconding supervisory authority operate in another Member State, the Member State of the host supervisory authority shall assume responsibility for their actions, including liability, for any damage caused by them during their operations, in accordance with the law of the Member State in whose territory they are operating.

4. 若參加監管機關之職員依第 1 項在另一會員國工作者，對其在工作期間造成之任何損害，主辦監管機關所屬之會員國應依其等工作所在地之會員國法對其等之行為負擔責任，包括賠償責任。

5. The Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own staff. The Member State of the seconding supervisory authority whose staff has caused damage to any person in the territory of another Member State shall reimburse that other Member State in full any sums it has paid to the persons entitled on their behalf.

5. 造成損害所在地之會員國應依適用其自身職員造成損害之條件，賠償該損害。參加監管機關之職員對其他會員國之任何人造成損害者，

其所屬會員國應全額賠償該其他會員國向有權受償之人支付之任何金額。

6. Without prejudice to the exercise of its rights *vis-à-vis* third parties and with the exception of paragraph 5, each Member State shall refrain, in the case provided for in paragraph 1, from requesting reimbursement from another Member State in relation to damage referred to in paragraph 4.

6. 在不妨礙第三人行使權利之情況下，除第 5 項外，在第 1 項規定之情形下，各會員國應不要求另一會員國賠償關於第 4 項所述之損害。

7. Where a joint operation is intended and a supervisory authority does not, within one month, comply with the obligation laid down in the second sentence of paragraph 2 of this Article, the other supervisory authorities may adopt a provisional measure on the territory of its Member State in accordance with Article 55. In that case, the urgent need to act under Article 66(1) shall be presumed to be met and require an opinion or an urgent binding decision from the Board pursuant to Article 66(2).

7. 如欲進行聯合作業，且監管機關未於一個月內遵守本條第 2 項後段所規定之義務，其他監管機關得依第 55 條在該會員國之領土上採取臨時措施。在該等情況下，應推定有依第 66 條第 1 項採取行動之迫切需要，並要求委員會依第 66 條第 2 項提出意見或做出緊急且有拘束力之裁決。

## Section 2

### 第 2 節

## Consistency

### 一致性

## Article 63

### 第 63 條

## **Consistency mechanism**

### **一致性機制**

In order to contribute to the consistent application of this Regulation throughout the Union, the supervisory authorities shall cooperate with each other and, where relevant, with the Commission, through the consistency mechanism as set out in this Section.

為有助於本規則於歐盟境內一致之適用，監管機關應透過本節所規定之一致性機制互相合作，並斟酌情形與執委會合作。

### *Article 64*

### **第 64 條**

## **Opinion of the Board**

### **委員會之意見**

1. The Board shall issue an opinion where a competent supervisory authority intends to adopt any of the measures below. To that end, the competent supervisory authority shall communicate the draft decision to the Board, when it:

1. 當主管監管機關欲採取下列任一措施時，委員會應發布其意見。為此，當有下列任一情形時，主管監管機關應向委員會通知該裁決草案：

(a) aims to adopt a list of the processing operations subject to the requirement for a data protection impact assessment pursuant to Article 35(4);

(a) 旨在採取依第 35 條第 4 項規定進行資料保護影響評估之處理活動清單；

(b) concerns a matter pursuant to Article 40(7) whether a draft code of conduct or an amendment or extension to a code of conduct complies with this Regulation;

(b) 涉及依第 40 條第 7 項之事項，即行為守則草案或行為守則之修訂或擴充是否符合本規則；

(c) aims to approve the criteria for accreditation of a body pursuant to Article 41(3) or a certification body pursuant to Article 43(3);

(c) 旨在核准第 41 條第 3 項之機構認證標準或第 43 條第 3 項之認證機構；

(d) aims to determine standard data protection clauses referred to in point (d) of Article 46(2) and in Article 28(8);

(d) 旨在決定第 46 條第 2 項第 d 點及第 28 條第 8 項所述之標準資料保護條款；

(e) aims to authorise contractual clauses referred to in point (a) of Article 46(3); or

(e) 旨在授權第 46 條第 3 項第 a 點所述之契約條款；或

(f) aims to approve binding corporate rules within the meaning of Article 47.

(f) 旨在核准第 47 條定義下有拘束力之企業守則。

2. Any supervisory authority, the Chair of the Board or the Commission may request that any matter of general application or producing effects in more than one Member State be examined by the Board with a view to obtaining an opinion, in particular where a competent supervisory authority does not comply with the obligations for mutual assistance in accordance with Article 61 or for joint operations in accordance with Article 62.

2. 任何監管機關、委員會主席或執委會主席為獲得意見得要求委員會審查任何在一個以上之會員國具有一般適用性或產生效力之事項，特別是當主管監管機關不遵守第 61 條互助之義務，或第 62 條聯合作業之義務時。

3. In the cases referred to in paragraphs 1 and 2, the Board shall issue an

opinion on the matter submitted to it provided that it has not already issued an opinion on the same matter. That opinion shall be adopted within eight weeks by simple majority of the members of the Board. That period may be extended by a further six weeks, taking into account the complexity of the subject matter. Regarding the draft decision referred to in paragraph 1 circulated to the members of the Board in accordance with paragraph 5, a member which has not objected within a reasonable period indicated by the Chair, shall be deemed to be in agreement with the draft decision.

3. 在第 1 項及第 2 項所規定之情形，若委員會尚未對同一事項發表過意見，應就提交予其之事項發布意見。該意見應於八週內以委員會成員過半數多數決之方式通過之。考量標的之複雜性，該期限得延長六週。關於依第 5 項向委員會成員分發之第 1 項所述之裁決草案，未在本主席所指定之合理期間內表示異議之成員應被視為同意該裁決草案。

4. Supervisory authorities and the Commission shall, without undue delay, communicate by electronic means to the Board, using a standardised format any relevant information, including as the case may be a summary of the facts, the draft decision, the grounds which make the enactment of such measure necessary, and the views of other supervisory authorities concerned.

4. 監管機關及執委會應以電子方式使用標準化格式傳送任何相關資訊，依其情形包括事實摘要、裁決草案、使訂定該等措施為必要之理由，以及其他相關監管機關之觀點，不得無故遲延。

5. The Chair of the Board shall, without undue, delay inform by electronic means:

5. 委員會之主席應以電子方式通知，不得無故遲延：

(a) the members of the Board and the Commission of any relevant information which has been communicated to it using a standardised format. The secretariat of the Board shall, where necessary, provide translations of relevant information; and



(a) 曾依標準化格式向其傳送之任何相關資訊之委員會及執委會之成員。必要時，委員會之秘書應提供相關資訊之翻譯；以及

(b) the supervisory authority referred to, as the case may be, in paragraphs 1 and 2, and the Commission of the opinion and make it public.

(b) 第 1 項及第 2 項所述之監管機關(視情況而定)及執委會之意見，並使其公開。

6. The competent supervisory authority shall not adopt its draft decision referred to in paragraph 1 within the period referred to in paragraph 3.

6. 主管監管機關不得在第 3 項所述期間通過其依第 1 項所述之裁決草案。

7. The supervisory authority referred to in paragraph 1 shall take utmost account of the opinion of the Board and shall, within two weeks after receiving the opinion, communicate to the Chair of the Board by electronic means whether it will maintain or amend its draft decision and, if any, the amended draft decision, using a standardised format.

7. 第 1 項所述之監管機關應充分考量委員會之意見，並應在收到意見後兩週內，透過電子方式使用標準化格式向委員會主席通知是否維持或修訂其裁決草案，以及有修訂時，修訂之裁決草案。

8. Where the supervisory authority concerned informs the Chair of the Board within the period referred to in paragraph 7 of this Article that it does not intend to follow the opinion of the Board, in whole or in part, providing the relevant grounds, Article 65(1) shall apply.

8. 若相關監管機關在第 7 項所述之期限內通知委員會之主席其不欲遵循全部或部分委員會之意見，若有正當理由，應有第 65 條第 1 項之適用。

## *Article 65*

### *第 65 條*

## Dispute resolution by the Board

### 委員會之爭議解決

1. In order to ensure the correct and consistent application of this Regulation in individual cases, the Board shall adopt a binding decision in the following cases:

1. 為確保本規則在個案中正確且一致之適用，在下列情況下，委員會應通過有拘束力之裁決：

(a) where, in a case referred to in Article 60(4), a supervisory authority concerned has raised a relevant and reasoned objection to a draft decision of the lead authority or the lead authority has rejected such an objection as being not relevant or reasoned. The binding decision shall concern all the matters which are the subject of the relevant and reasoned objection, in particular whether there is an infringement of this Regulation;

(a) 在第 60 條第 4 項所述之情況下，已有一相關監管機關對領導監管機關之裁決草案提出相關且合理之異議，或領導監管機關已以不相關或不合理為由拒絕該等異議。該有拘束力之裁決應涉及該相關且合理之異議作為理由之所有事項，特別是是否違反本規則；

(b) where there are conflicting views on which of the supervisory authorities concerned is competent for the main establishment;

(b) 相關監管機關對該主要分支機構是否有處理權限有爭議時；

(c) where a competent supervisory authority does not request the opinion of the Board in the cases referred to in Article 64(1), or does not follow the opinion of the Board issued under Article 64. In that case, any supervisory authority concerned or the Commission may communicate the matter to the Board.

(c) 當主管監管機關在第 64 條第 1 項所述情況下為請求委員會之意見，或不遵循委員會根據第 64 條發布之意見。在該等情況下，任何相關監管機關或執委會得將該等事項通知委員會。

2. The decision referred to in paragraph 1 shall be adopted within one month from the referral of the subject-matter by a two-thirds majority of the members of the Board. That period may be extended by a further month on account of the complexity of the subject-matter. The decision referred to in paragraph 1 shall be reasoned and addressed to the lead supervisory authority and all the supervisory authorities concerned and binding on them.

2. 第 1 項所述之裁決應在委員會成員三分之二多數決之方式提交該待決標的後一個月內作成。該期限得考量待決標的之複雜性而延長一個月。第 1 項所述之裁決應合理並提交予領導監管機關以及所有相關監管機關，並對其等有拘束力。

3. Where the Board has been unable to adopt a decision within the periods referred to in paragraph 2, it shall adopt its decision within two weeks following the expiration of the second month referred to in paragraph 2 by a simple majority of the members of the Board. Where the members of the Board are split, the decision shall be adopted by the vote of its Chair.

3. 若委員會無法於第 2 項所述之期限內通過裁決，其應於第 2 項所述之第二個月期滿後之兩個星期內以委員會成員過半數多數決之方式通過其裁決。若委員會之成員意見分歧，該裁決應由其主席投票通過。

4. The supervisory authorities concerned shall not adopt a decision on the subject matter submitted to the Board under paragraph 1 during the periods referred to in paragraphs 2 and 3.

4. 相關監管機關不得在第 2 項及第 3 項所述之期間通過根據第 1 項提交予委員會之待決標的。

5. The Chair of the Board shall notify, without undue delay, the decision referred to in paragraph 1 to the supervisory authorities concerned. It shall inform the Commission thereof. The decision shall be published on the website of the Board without delay after the supervisory authority has notified the final decision referred to in paragraph 6.

5. 歐洲資料委員會之主席應將第 1 項所述之裁決告知相關監管機關，不得無故遲延。其亦應通知執委會。該裁決應在監管機關依第 6 項所述通知最終裁決後立即在歐洲資料委員會之網站上公布。

6. The lead supervisory authority or, as the case may be, the supervisory authority with which the complaint has been lodged shall adopt its final decision on the basis of the decision referred to in paragraph 1 of this Article, without undue delay and at the latest by one month after the Board has notified its decision. The lead supervisory authority or, as the case may be, the supervisory authority with which the complaint has been lodged, shall inform the Board of the date when its final decision is notified respectively to the controller or the processor and to the data subject. The final decision of the supervisory authorities concerned shall be adopted under the terms of Article 60(7), (8) and (9). The final decision shall refer to the decision referred to in paragraph 1 of this Article and shall specify that the decision referred to in that paragraph will be published on the website of the Board in accordance with paragraph 5 of this Article. The final decision shall attach the decision referred to in paragraph 1 of this Article.

6. 領導監管機關或受理申訴之監管機關（視情況而定）應根據本條第 1 項所述之裁決作出其最終裁決，不得無故遲延，且最遲應於委員會告知其裁決後一個月內為之。領導監管機關或受理申訴之監管機關（視情況而定）應將其分別通知控管者或處理者以及資料主體其最終裁決之日期通知委員會。相關監管機關之最終裁決應根據第 60 條第 7 項、第 8 項及第 9 項之規定通過。最終裁決應參照本條第 1 項所述之裁決，並應具體說明該項所述之裁決將依本條第 5 項之規定在委員會之網站上公布。最終裁決應附有本條第 1 項所述之裁決。

## *Article 66*

### 第 66 條

## **Urgency procedure**

### **緊急程序**

1. In exceptional circumstances, where a supervisory authority concerned considers that there is an urgent need to act in order to protect the rights and freedoms of data subjects, it may, by way of derogation from the consistency mechanism referred to in Articles 63, 64 and 65 or the procedure referred to in Article 60, immediately adopt provisional measures intended to produce legal effects on its own territory with a specified period of validity which shall not exceed three months. The supervisory authority shall, without delay, communicate those measures and the reasons for adopting them to the other supervisory authorities concerned, to the Board and to the Commission.

1. 在特殊情況下，當相關監管機關認為有迫切需要採取行動以保護資料主體之權利及自由，其得不適用第 63 條、第 64 條及第 65 條所述之一致性機制，或第 60 條所述之程序，而立即採取旨在其所在國境內產生法律效果，且有效期限不得超過三個月之臨時措施。監管機關應立即向其他相關監管機關、委員會及執委會通知該等措施及採取該等措施之理由。

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 and considers that final measures need urgently be adopted, it may request an urgent opinion or an urgent binding decision from the Board, giving reasons for requesting such opinion or decision.

2. 如監管機關已依第 1 項採取措施，且認為需緊急通過最終措施者，其得請求委員會提出緊急意見或緊急且有拘束力之裁決，並說明請求該等意見或裁決之理由。

3. Any supervisory authority may request an urgent opinion or an urgent binding decision, as the case may be, from the Board where a competent supervisory authority has not taken an appropriate measure in a situation where there is an urgent need to act, in order to protect the rights and freedoms of data subjects, giving reasons for requesting such opinion or decision, including for the urgent need to act.

3. 若主管監管機關在有採取行動之迫切需要時沒有採取適當措施，任何監管機關得依其情形向委員會請求緊急意見或緊急且有拘束力

之裁決，以保護資料主體之權利及自由，並說明請求該等意見或裁決之理由，包括採取行動之迫切需要。

4. By derogation from Article 64(3) and Article 65(2), an urgent opinion or an urgent binding decision referred to in paragraphs 2 and 3 of this Article shall be adopted within two weeks by simple majority of the members of the Board.

4. 本條第 2 項及第 3 項所述之緊急意見或緊急且有拘束力之裁決應在兩週內以委員會成員過半數多數決之方式通過，而不適用第 64 條第 3 項及第 65 條第 2 項。

### *Article 67*

### 第 67 條

## **Exchange of information**

### 資訊交換

The Commission may adopt implementing acts of general scope in order to specify the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the Board, in particular the standardised format referred to in Article 64.

執委會得通過一般範圍內之施行法以具體化規範監管機關相互間及監管機關與委員會間以電子方式資訊交換的安排，特別是第 64 條所述之標準化格式。

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 93(2).

該等施行法應經第 93 條第 2 項所述之檢驗程序通過。

## Section 3

### 第 3 節

## **European data protection board**

## 歐洲資料保護委員會

### Article 68

### 第 68 條

## European Data Protection Board

### 歐洲資料保護委員會

1. The European Data Protection Board (the ‘Board’) is hereby established as a body of the Union and shall have legal personality.

1. 茲此設立歐洲資料保護委員會（「委員會」），為歐盟之機構，並應具有法人格地位。

2. The Board shall be represented by its Chair.

2. 委員會應以其主席為代表。

3. The Board shall be composed of the head of one supervisory authority of each Member State and of the European Data Protection Supervisor, or their respective representatives.

3. 委員會應由各會員國監管機關及歐盟資料保護監督組織之首長或其等相應之代表組成。

4. Where in a Member State more than one supervisory authority is responsible for monitoring the application of the provisions pursuant to this Regulation, a joint representative shall be appointed in accordance with that Member State's law.

4. 若在一會員國內有超過一個監管機關負責監督本規則條款之適用，應根據會員國法任命一名聯合代表。

5. The Commission shall have the right to participate in the activities and meetings of the Board without voting right. The Commission shall designate a representative. The Chair of the Board shall communicate to the Commission the activities of the Board.

5. 執委會應有權參加委員會之活動及會議，但無表決權。執委會應指定一名代表。委員會之主席應向執委會通知委員會之活動。

6. In the cases referred to in Article 65, the European Data Protection Supervisor shall have voting rights only on decisions which concern principles and rules applicable to the Union institutions, bodies, offices and agencies which correspond in substance to those of this Regulation.

6. 在第 65 條之情形，歐盟資料保護監督組織應僅對涉及適用歐盟當局、機構、辦事處及局處且實質上符合本規則之原則與規定的裁決有表決權。

### *Article 69*

#### 第 69 條

### **Independence**

#### 獨立性

1. The Board shall act independently when performing its tasks or exercising its powers pursuant to Articles 70 and 71.

1. 委員會依第 70 條及第 71 條執行其任務或行使其權力時，應獨立行使職權。

2. Without prejudice to requests by the Commission referred to in point (b) of Article 70(1) and in Article 70(2), the Board shall, in the performance of its tasks or the exercise of its powers, neither seek nor take instructions from anybody.

2. 在不影響第 70 條第 1 項第 b 點及第 70 條第 2 項所述執委會提出請求之情況下，委員會在執行其任務或行使其權力時不得尋求或採取任何人之指示。

### *Article 70*

#### 第 70 條

### **Tasks of the Board**



## 委員會之任務

1. The Board shall ensure the consistent application of this Regulation. To that end, the Board shall, on its own initiative or, where relevant, at the request of the Commission, in particular:

1. 委員會應確保本規則之一致適用。為此目的，委員會特別應主動或斟酌情形在執委會之要求下為下列行為：

(a) monitor and ensure the correct application of this Regulation in the cases provided for in Articles 64 and 65 without prejudice to the tasks of national supervisory authorities;

(a) 監督並確保本規則在第 64 條及第 65 條規定情形之正確適用，但不妨礙國家監管機關之任務；

(b) advise the Commission on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;

(b) 就與歐盟境內個人資料保護之任何議題，包括就本規則之任何建議修訂，向執委會提供意見；

(c) advise the Commission on the format and procedures for the exchange of information between controllers, processors and supervisory authorities for binding corporate rules;

(c) 就控管者、處理者及監管機關對於有拘束力之企業守則的資訊交換格式及程序，向委員會提供意見；

(d) issue guidelines, recommendations, and best practices on procedures for erasing links, copies or replications of personal data from publicly available communication services as referred to in Article 17(2);

(d) 發布第 17 條第 2 項所述自公開通訊服務刪除個人資料連結、複製或仿製之指導原則、建議及最佳做法；

(e) examine, on its own initiative, on request of one of its members or on request of the Commission, any question covering the application of this

Regulation and issue guidelines, recommendations and best practices in order to encourage consistent application of this Regulation;

(e) 主動或依其一名成員或執委會之請求，審查涵蓋本規則適用之任何問題並發布指導原則、建議及最佳做法以鼓勵本規則之一致適用。

(f) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for further specifying the criteria and conditions for decisions based on profiling pursuant to Article 22(2);

(f) 為進一步規範根據第 22 條第 2 項建檔之標準與條件，依本項第 e 點發布指導原則、建議及最佳做法；

(g) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for establishing the personal data breaches and determining the undue delay referred to in Article 33(1) and (2) and for the particular circumstances in which a controller or a processor is required to notify the personal data breach;

(g) 就確定個人資料侵害並決定第 33 條第 1 項及第 2 項所述之無故遲延，以及控管者或處理者被要求通知該個人資料侵害之特定情況，依本項第 e 點發布指導原則、建議及最佳做法；

(h) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph as to the circumstances in which a personal data breach is likely to result in a high risk to the rights and freedoms of the natural persons referred to in Article 34(1).

(h) 在第 34 條第 1 項所述就個人資料侵害可能導致對當事人權利及自由之高風險之情形，依本項第 e 點發布指導原則、建議及最佳做法。

(i) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for the purpose of further specifying the criteria and requirements for personal data transfers based on binding corporate rules adhered to by controllers and binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned referred to

in Article 47;

(i) 基於控管者遵循之有拘束力之企業守則及處理者遵循之有拘束力之企業守則，並基於進一步必要之要求，為進一步規範個人資料移轉之標準及依第 47 條之要求以確保相關資料主體個人資料之保護，依本項第 e 點發布指導原則、建議及最佳做法；

(j) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for the purpose of further specifying the criteria and requirements for the personal data transfers on the basis of Article 49(1);

(j) 為根據第 49 條第 1 項進一步規範個人資料移轉之標準及要求，依本項第 e 點發布指導原則、建議及最佳做法；

(k) draw up guidelines for supervisory authorities concerning the application of measures referred to in Article 58(1), (2) and (3) and the setting of administrative fines pursuant to Article 83;

(k) 就第 58 條第 1 項、第 2 項及第 3 項所述措施之適用，以及第 83 條罰鍰之訂定，為監管機關制定指導原則；

(l) review the practical application of the guidelines, recommendations and best practices referred to in points (e) and (f);

(l) 審查第 e 點及第 f 點所述指導原則、建議及最佳做法之實際適用；

(m) issue guidelines, recommendations and best practices in accordance with point (e) of this paragraph for establishing common procedures for reporting by natural persons of infringements of this Regulation pursuant to Article 54(2);

(m) 就第 54 條第 2 項當事人報告本規則侵害之一般程序之建立，依本項第 e 點發布指導原則、建議及最佳做法；

(n) encourage the drawing-up of codes of conduct and the establishment of data protection certification mechanisms and data protection seals and marks pursuant to Articles 40 and 42;

(n) 依第 40 條及第 42 條鼓勵行為守則之訂定及資料保護認證機制、資料保護標章及標誌之建立；

(o) carry out the accreditation of certification bodies and its periodic review pursuant to Article 43 and maintain a public register of accredited bodies pursuant to Article 43(6) and of the accredited controllers or processors established in third countries pursuant to Article 42(7);

(o) 依第 43 條進行認證機構之委託及其定期檢驗，並維護依第 43 條第 6 項受託機關及依 42 條第 7 項設立於第三國之受託控管者或處理者的公共紀錄；

(p) specify the requirements referred to in Article 43(3) with a view to the accreditation of certification bodies under Article 42;

(p) 為第 42 條認證機構之委託，具體化規範第 43 條第 3 項所述之要求；

(q) provide the Commission with an opinion on the certification requirements referred to in Article 43(8);

(q) 提供執委會關於第 43 條第 8 項所述認證要求之意見；

(r) provide the Commission with an opinion on the icons referred to in Article 12(7);

(r) 提供執委會關於第 12 條第 7 項所述標誌方式之意見；

(s) provide the Commission with an opinion for the assessment of the adequacy of the level of protection in a third country or international organisation, including for the assessment whether a third country, a territory or one or more specified sectors within that third country, or an international organisation no longer ensures an adequate level of protection. To that end, the Commission shall provide the Board with all necessary documentation, including correspondence with the government of the third country, with regard to that third country, territory or specified sector, or with the international organisation.

(s) 提供執委會關於第三國或國際組織保護程度適當性之評估，包括評估第三國、第三國內之領域或特定部門、或國際組織是否不再確保適當程度之保護。為此，執委會應提供委員會所有必要之文件，包括與第三國政府關於第三國、第三國內之領域或部門，或與國際組織之通信。

(t) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 64(1), on matters submitted pursuant to Article 64(2) and to issue binding decisions pursuant to Article 65, including in cases referred to in Article 66;

(t) 依據第 64 條第 1 項所述之一致性機制發布對監管機關裁決草案之意見，發布對第 64 條第 2 項提交事項之意見，以及依第 65 條發布有拘束力之裁決，包括第 66 條所述之情形；

(u) promote the cooperation and the effective bilateral and multilateral exchange of information and best practices between the supervisory authorities;

(u) 促進監管機關間之合作、有效之雙邊及多邊資訊交換及最佳做法；

(v) promote common training programmes and facilitate personnel exchanges between the supervisory authorities and, where appropriate, with the supervisory authorities of third countries or with international organisations;

(v) 促進一般培訓方案並促進監管機關間及在適當時與第三國之監管機關或國際組織之人員交換；

(w) promote the exchange of knowledge and documentation on data protection legislation and practice with data protection supervisory authorities worldwide.

(w) 促進與全世界之資料保護監管機關間資料保護立法及實踐知識及文件之交換。

(x) issue opinions on codes of conduct drawn up at Union level pursuant

to Article 40(9); and

(x) 發布對根據第 40 條第 9 項以歐盟層級起草之行為守則的意見；  
及

(y) maintain a publicly accessible electronic register of decisions taken by supervisory authorities and courts on issues handled in the consistency mechanism.

(y) 維護一大眾得接近使用之電子紀錄，紀錄監管機構及法院於一致性機制中處理之議題所做之裁決。

2. Where the Commission requests advice from the Board, it may indicate a time limit, taking into account the urgency of the matter.

2. 若執委會要求委員會提供建議，考量該事項之急迫性，得指定一定之時限。

3. The Board shall forward its opinions, guidelines, recommendations, and best practices to the Commission and to the committee referred to in Article 93 and make them public.

3. 委員會應將其意見、指導原則、建議及最佳做法轉呈執委會及第 93 條所述之委員會，並將其公開。

4. The Board shall, where appropriate, consult interested parties and give them the opportunity to comment within a reasonable period. The Board shall, without prejudice to Article 76, make the results of the consultation procedure publicly available.

4. 委員會應在適當時諮詢利害關係人，並給予其等在合理期間內陳述意見之機會。在不影響第 76 條之情況下，委員會應公布諮詢程序之結果。

## *Article 71*

### *第 71 條*

## **Reports**

## 報告

1. The Board shall draw up an annual report regarding the protection of natural persons with regard to processing in the Union and, where relevant, in third countries and international organisations. The report shall be made public and be transmitted to the European Parliament, to the Council and to the Commission.

1. 委員會應編製關於歐盟境內資料處理當事人保護之年度報告，以及相關時於第三國及國際組織之資料處理。此報告應公開並提交歐洲議會、歐洲理事會及執委會。

2. The annual report shall include a review of the practical application of the guidelines, recommendations and best practices referred to in point (l) of Article 70(1) as well as of the binding decisions referred to in Article 65.

2. 年度報告應包括對第 70 條第 1 項第 1 點所述之指導原則、建議及最佳做法之實際適用，以及第 65 條所述有拘束力之裁決之審查。

## *Article 72*

### 第 72 條

## **Procedure**

### 程序

1. The Board shall take decisions by a simple majority of its members, unless otherwise provided for in this Regulation.

1. 除本規則另有規定，委員會應以其成員過半數多數決做出裁決。

2. The Board shall adopt its own rules of procedure by a two-thirds majority of its members and organise its own operational arrangements.

2. 委員會應以其成員三分之二多數決通過自己之議事規則，並組織自己之營運安排。

## *Article 73*

## 第 73 條

### Chair

#### 主席

1. The Board shall elect a chair and two deputy chairs from amongst its members by simple majority.

1. 委員會應以其成員過半數多數決選出一名主席及兩名副主席。

2. The term of office of the Chair and of the deputy chairs shall be five years and be renewable once.

2. 主席及副主席之任期為五年，得連任一次。

## Article 74

## 第 74 條

### Tasks of the Chair

#### 主席之任務

1. The Chair shall have the following tasks: (a) to convene the meetings of the Board and prepare its agenda; (b) to notify decisions adopted by the Board pursuant to Article 65 to the lead supervisory authority and the supervisory authorities concerned; (c) to ensure the timely performance of the tasks of the Board, in particular in relation to the consistency mechanism referred to in Article 63.

1. 主席應有下列任務：(a) 召開委員會會議並編製其議程；(b) 向領導監管機關及相關監管機關告知委員會依第 65 條通過之裁決；(c) 確保及時執行委員會之任務，特別是有關第 63 條所述之一致性機制者。

2. The Board shall lay down the allocation of tasks between the Chair and the deputy chairs in its rules of procedure.

2. 委員會應在其議事規則中規定主席及副主席間之任務分配。



## Article 75

### 第 75 條

#### Secretariat

#### 秘書處

1. The Board shall have a secretariat, which shall be provided by the European Data Protection Supervisor.

1. 委員會應設置秘書處，且應由歐盟資料保護監督組織提供。

2. The secretariat shall perform its tasks exclusively under the instructions of the Chair of the Board.

2. 秘書處僅得依委員會主席之指示執行其任務。

3. The staff of the European Data Protection Supervisor involved in carrying out the tasks conferred on the Board by this Regulation shall be subject to separate reporting lines from the staff involved in carrying out tasks conferred on the European Data Protection Supervisor.

3. 參與執行本規則賦予委員會之任務的歐盟資料保護監督組織職員，其應遵循之報告管道，應與參與賦予歐盟資料保護監督組織之任務的職員遵循之報告管道有所區別。

4. Where appropriate, the Board and the European Data Protection Supervisor shall establish and publish a Memorandum of Understanding implementing this Article, determining the terms of their cooperation, and applicable to the staff of the European Data Protection Supervisor involved in carrying out the tasks conferred on the Board by this Regulation.

4. 在適當情況下，委員會及歐盟資料保護監督組織應制訂並公布實行本條之諒解備忘錄，決定其等合作之條款，並適用於參與本規則賦予委員會之任務的歐盟資料保護監督組織職員。

5. The secretariat shall provide analytical, administrative and logistical

support to the Board.

5. 秘書處應提供分析、行政以及後勤之協助。

6. The secretariat shall be responsible in particular for:

6. 秘書處應特別負責：

(a) the day-to-day business of the Board;

(a) 委員會之日常業務；

(b) communication between the members of the Board, its Chair and the Commission;

(b) 委員會成員、主席及執委會間之溝通；

(c) communication with other institutions and the public;

(c) 與其他機構及大眾之溝通；

(d) the use of electronic means for the internal and external communication;

(d) 使用電子方式進行內部及外部溝通；

(e) the translation of relevant information;

(e) 相關資訊之翻譯；

(f) the preparation and follow-up of the meetings of the Board;

(f) 準備及追蹤委員會會議；

(g) the preparation, drafting and publication of opinions, decisions on the settlement of disputes between supervisory authorities and other texts adopted by the Board.

(g) 準備、草擬並公布對監管機關間爭議解決之意見、裁決，及其他委員會通過之案文。

## *Article 76*

## 第 76 條

### **Confidentiality**

#### 保密性

1. The discussions of the Board shall be confidential where the Board deems it necessary, as provided for in its rules of procedure.

1. 委員會根據其議事規則，當認為有必要時，委員會之討論應保密。

2. Access to documents submitted to members of the Board, experts and representatives of third parties shall be governed by Regulation (EC) No 1049/2001 of the European Parliament and of the Council (<sup>1</sup>).

2. 接近使用提交予委員會成員、專家及第三方代表之文件應遵守歐洲議會及歐盟理事會之歐盟規則第 1049/2001 號(<sup>1</sup>)之規定。

## *CHAPTER VIII*

### 第 8 章

#### ***Remedies, liability and penalties***

#### 救濟、義務及處罰

#### *Article 77*

#### **Right to lodge a complaint with a supervisory authority**

#### 向監管機關提出申訴之權利

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority, in particular in the Member State of his or her habitual

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

歐洲議會及歐盟理事會於 2001 年 5 月 30 日就公眾接近使用歐洲議會、歐盟理事會及執委會文件，制定歐盟規則第 1049/2001 號（官方公報 L 類第 145 期，2001 年 5 月 31 日，第 43 頁）。

residence, place of work or place of the alleged infringement if the data subject considers that the processing of personal data relating to him or her infringes this Regulation.

1. 在不影響任何其他行政或司法救濟之情況下，如資料主體認為與其有關之個人資料處理違反本規則者，資料主體應有權向監管機關提出申訴，尤其係向其住所地、工作地或受侵害地之會員國。

2. The supervisory authority with which the complaint has been lodged shall inform the complainant on the progress and the outcome of the complaint including the possibility of a judicial remedy pursuant to Article 78.

2. 受理申訴之監管機關應通知申訴人申訴之過程及結果，包括依第78條規定提起司法救濟之可能性。

#### *Article 78*

#### 第78條

### **Right to an effective judicial remedy against a supervisory authority**

#### **對監管機關提起有效司法救濟之權利**

1. Without prejudice to any other administrative or non-judicial remedy, each natural or legal person shall have the right to an effective judicial remedy against a legally binding decision of a supervisory authority concerning them.

1. 在不影響任何其他行政或非司法救濟之情況下，自然人或法人應有權對監管機關就其所為具有法律拘束力之處分提起有效司法救濟。

2. Without prejudice to any other administrative or non-judicial remedy, each data subject shall have the right to a an effective judicial remedy where the supervisory authority which is competent pursuant to Articles 55 and 56 does not handle a complaint or does not inform the data subject within three months on the progress or outcome of the complaint lodged

pursuant to Article 77.

2. 在不影響任何其他行政或非司法救濟之情況下，如第 55 條及第 56 條所定之監管主管機關不處理申訴或未於三個月內依照第 77 條規定通知申訴人申訴進展或結果者，資料主體應有權提起有效之司法救濟。

3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.

3. 對監管機關之訴訟應提交於監管機關設立地之會員國法院。

4. Where proceedings are brought against a decision of a supervisory authority which was preceded by an opinion or a decision of the Board in the consistency mechanism, the supervisory authority shall forward that opinion or decision to the court.

4. 在委員會於一致性機制中提出意見或做出決定以前，已對監管機關所為處分提起訴訟者，監管機關應將該意見或決定轉交法院。

## *Article 79*

### *第 79 條*

#### **Right to an effective judicial remedy against a controller or processor**

##### **對於控管者或處理者提出有效司法救濟之權利**

1. Without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint with a supervisory authority pursuant to Article 77, each data subject shall have the right to an effective judicial remedy where he or she considers that his or her rights under this Regulation have been infringed as a result of the processing of his or her personal data in non-compliance with this Regulation.

1. 在不影響任何現有之行政或非司法救濟（包括依第 77 條向監管機關提出申訴之權利）之情況下，如資料主體認為其依本規則所定之權

利因未遵守本規則處理其個人資料而遭受侵害者，資料主體應有權提出有效之司法救濟。

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has his or her habitual residence, unless the controller or processor is a public authority of a Member State acting in the exercise of its public powers.

2. 對於控管者或處理者提起之訴訟應提交至該控管者或處理者設有分支機構之會員國法院。此外，除控管者或處理者係行使公權力之公務機關外，亦可向資料主體住所地之會員國法院提起之。

## *Article 80*

### *第 80 條*

## **Representation of data subjects**

### **資料主體之代表**

1. The data subject shall have the right to mandate a not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of the protection of data subjects' rights and freedoms with regard to the protection of their personal data to lodge the complaint on his or her behalf, to exercise the rights referred to in Articles 77, 78 and 79 on his or her behalf, and to exercise the right to receive compensation referred to in Article 82 on his or her behalf where provided for by Member State law.

1. 資料主體應有權委任依會員國法合法設立、以公益為目的，且在個人資料保護領域活躍之非營利機構、組織或社團，代其向監管機關提出申訴、代其行使第 77、78 及 79 條所定之權利，以及於會員國法有規定時，代其行使第 82 條所定收受賠償金之權利。

2. Member States may provide that any body, organisation or association

referred to in paragraph 1 of this Article, independently of a data subject's mandate, has the right to lodge, in that Member State, a complaint with the supervisory authority which is competent pursuant to Article 77 and to exercise the rights referred to in Articles 78 and 79 if it considers that the rights of a data subject under this Regulation have been infringed as a result of the processing.

2. 會員國得規範本條第 1 項所定之任何機構、組織或社團，在該會員國境內享有受資料主體委任，向主管監管機關獨立提出第 77 條所定之申訴之權利，以及在有理由認為資料主體之權利因違反本規則之個人資料處理而受有損害時，行使第 78 條及第 79 條所定之權利。

### *Article 81*

#### 第 81 條

### **Suspension of proceedings**

#### 停止訴訟程序

1. Where a competent court of a Member State has information on proceedings, concerning the same subject matter as regards processing by the same controller or processor, that are pending in a court in another Member State, it shall contact that court in the other Member State to confirm the existence of such proceedings.

1. 如會員國之管轄法院知悉關於同一控管者或處理者處理之同一事件已在其他會員國法院在案審理者，其應與他會員國之法院聯繫，以確認該訴訟之存在。

2. Where proceedings concerning the same subject matter as regards processing of the same controller or processor are pending in a court in another Member State, any competent court other than the court first seized may suspend its proceedings.

2. 如同一控管者或處理者處理之同一事件之訴訟程序已在他會員國的法院在案審理，除管轄在先以外之其他任何管轄法院得停止其訴訟程序。

3. Where those proceedings are pending at first instance, any court other than the court first seized may also, on the application of one of the parties, decline jurisdiction if the court first seized has jurisdiction over the actions in question and its law permits the consolidation thereof.

3. 該等訴訟程序於第一審程序中在案審理，如管轄在先之法院就該等訴訟程序有管轄權，且其法律允許合併訴訟者，除管轄在先之法院外，任何其他法院亦得應一方當事人的聲請，拒絕管轄。

## *Article 82*

### 第 82 條

#### **Right to compensation and liability**

##### **賠償請求權及義務**

1. Any person who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the controller or processor for the damage suffered.

1. 因違反本規則而遭受物質上或非物質上之損害時，任何人應有權利自控管者或處理者就其損害獲得賠償。

2. Any controller involved in processing shall be liable for the damage caused by processing which infringes this Regulation. A processor shall be liable for the damage caused by processing only where it has not complied with obligations of this Regulation specifically directed to processors or where it has acted outside or contrary to lawful instructions of the controller.

2. 任何涉及資料處理之控管者應對違反本規則之資料處理造成之損害承擔責任。僅在處理者未遵循本規則針對處理者所規定之義務，或其行為超出或違反控制者合法之指示時，處理者應對資料處理造成之損害承擔責任。

3. A controller or processor shall be exempt from liability under paragraph 2 if it proves that it is not in any way responsible for the event



giving rise to the damage.

3. 若控管者或處理者可證明其等對於造成損害之事件不可歸責時，其等應免除第 2 項之責任。

4. Where more than one controller or processor, or both a controller and a processor, are involved in the same processing and where they are, under paragraphs 2 and 3, responsible for any damage caused by processing, each controller or processor shall be held liable for the entire damage in order to ensure effective compensation of the data subject.

4. 若有超過一個控管者或處理者，或控管者和處理者皆同時涉及同一資料處理，且依第 2 項及第 3 項應對造成損害之資料處理承擔責任時，每個控管者或處理者皆應對整個損害承擔責任以確保對資料主體有效之賠償。

5. Where a controller or processor has, in accordance with paragraph 4, paid full compensation for the damage suffered, that controller or processor shall be entitled to claim back from the other controllers or processors involved in the same processing that part of the compensation corresponding to their part of responsibility for the damage, in accordance with the conditions set out in paragraph 2.

5. 若控管者或處理者依第 4 項就所受損害為全部之賠償，則該控管者或處理者應有權依照第 2 項所規定之條件向其他涉及同一資料處理之控管者或處理者請求償還其等各自就該損害應分擔之部分。

6. Court proceedings for exercising the right to receive compensation shall be brought before the courts competent under the law of the Member State referred to in Article 79(2).

6. 為行使受償之權利而進行之法院程序，應向第 79 條第 2 項所述會員國法下有管轄權之法院提起之。

### *Article 83*

### 第 83 條

## General conditions for imposing administrative fines

### 裁處行政罰鍰之一般要件

1. Each supervisory authority shall ensure that the imposition of administrative fines pursuant to this Article in respect of infringements of this Regulation referred to in paragraphs 4, 5 and 6 shall in each individual case be effective, proportionate and dissuasive.

1. 依本條規定對於違反本規則處以第 4 項、第 5 項及第 6 項所定之行政罰鍰者，各監管機關應確保於個案中係有效、適當且具懲戒性。

2. Administrative fines shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, measures referred to in points (a) to (h) and (j) of Article 58(2). When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:

2. 依個案情形，行政罰鍰應附加或取代第 58 條第 2 項第 a 至 h 點及第 j 點所定措施。於個案中決定是否處以行政罰鍰及決定其數額時，應考慮下列因素：

(a) the nature, gravity and duration of the infringement taking into account the nature scope or purpose of the processing concerned as well as the number of data subjects affected and the level of damage suffered by them;

(a) 違規之性質、嚴重性及持續期間，並考量到處理之性質範圍或目的，以及受影響之資料主體人數及其受損程度；

(b) the intentional or negligent character of the infringement;

(b) 違規之故意或過失；

(c) any action taken by the controller or processor to mitigate the damage suffered by data subjects;

(c) 控管者或處理者所採減少資料主體損害之任何行為；

(d) the degree of responsibility of the controller or processor taking into account technical and organisational measures implemented by them pursuant to Articles 25 and 32;

(d) 控管者或處理者之責任程度，並考量到其依第 25 條及第 32 條所實施之技術上及組織上之措施；

(e) any relevant previous infringements by the controller or processor;

(e) 控管者或處理者先前任何相關之違規情事；

(f) the degree of cooperation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

(f) 與監管機關之配合程度，以糾正其違規及減輕其違規所可能造成之不利影響；

(g) the categories of personal data affected by the infringement;

(g) 違規所影響之個人資料類型；

(h) the manner in which the infringement became known to the supervisory authority, in particular whether, and if so to what extent, the controller or processor notified the infringement;

(h) 監管機關知悉其違規之方式，尤其是控管者或處理者是否通知該違規或其通知之程度；

(i) where measures referred to in Article 58(2) have previously been ordered against the controller or processor concerned with regard to the same subject-matter, compliance with those measures;

(i) 先前已依照第 58 條第 2 項規定命控管者或處理者就同一標的採取措施者，該等措施之遵循；

(j) adherence to approved codes of conduct pursuant to Article 40 or approved certification mechanisms pursuant to Article 42; and

(j) 第 40 條所定經核准之行為守則或依第 42 條所定經核准之認證機

制之遵循；及

(k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.

(k) 任何其他適用於該個案情形之加重或減輕因素，例如因違約而直接或間接獲得之經濟利益或避免之損失；

3. If a controller or processor intentionally or negligently, for the same or linked processing operations, infringes several provisions of this Regulation, the total amount of the administrative fine shall not exceed the amount specified for the gravest infringement.

3. 對於相同或相關之處理作業，如控管者或處理者因故意或過失違反本規則之數個規定者，行政罰鍰總額不得超過最嚴重違規情事所定之數額。

4. Infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to 10 000 000 EUR, or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

4. 依照第二項規定，違反下列規定者，最高處以 10,000,000 歐元之行政罰鍰，或如為企業者，最高達前一會計年度全球年營業額之百分之二，並以較高者為準：

(a) the obligations of the controller and the processor pursuant to Articles 8, 11, 25 to 39 and 42 and 43;

(a) 第 8 條、第 11 條、第 25 條至第 39 條及第 42 條及第 43 條所定控管者及處理者之義務；

(b) the obligations of the certification body pursuant to Articles 42 and 43;

(b) 第 42 條及第 43 條所定認證機構之義務；

(c) the obligations of the monitoring body pursuant to Article 41(4).

(c) 第 41 條第 4 項所定監管機構之義務。

5. Infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

5. 依照第二項規定，違反下列規定者，最高處以 20,000,000 歐元之行政罰鍰，或如為企業者，最高達前一會計年度全球年營業額之百分之四，並以較高者為準：

(a) the basic principles for processing, including conditions for consent, pursuant to Articles 5, 6, 7 and 9;

(a) 第 5 條、第 6 條、第 7 條及第 9 條所定處理之基本原則，包括同意之條件；

(b) the data subjects' rights pursuant to Articles 12 to 22;

(b) 第 12 至 22 條所定資料主體之權利；

(c) the transfers of personal data to a recipient in a third country or an international organisation pursuant to Articles 44 to 49;

(c) 第 44 條至第 49 條所定個人資料移轉至第三國或國際組織之接收者；

(d) any obligations pursuant to Member State law adopted under Chapter IX;

(d) 依照第 9 章通過之會員國法律所定之任何義務；

(e) non-compliance with an order or a temporary or definitive limitation on processing or the suspension of data flows by the supervisory authority pursuant to Article 58(2) or failure to provide access in violation of Article 58(1).

(e) 違反監管機關依第 58 條第 2 項規定之命令或暫時性或終局性之處理限制或停止資料傳輸，或未提供進入而違反第 58 條第 1 項規定；

6. Non-compliance with an order by the supervisory authority as referred to in Article 58(2) shall, in accordance with paragraph 2 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

6. 違反監管機關依第 58 條第 2 項規定之命令者，依照本條第 2 項規定，最高處以 20,000,000 歐元之行政罰鍰，或如為企業者，最高達前一會計年度全球年營業額之百分之四，並以較高者為準。

7. Without prejudice to the corrective powers of supervisory authorities pursuant to Article 58(2), each Member State may lay down the rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.

7. 在不損及監管機關依第 58 條第 2 項所定糾正權力之情況下，各會員國得制定是否及如何對設立於該會員國之公務機關及機構處以行政罰之規定。

8. The exercise by the supervisory authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.

8. 監管機關依本條規定實施權力者，應遵守歐盟法及會員國法律，採取適當程序保障，包括有效之司法救濟及正當程序。

9. Where the legal system of the Member State does not provide for administrative fines, this Article may be applied in such a manner that the fine is initiated by the competent supervisory authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by supervisory authorities. In any event, the fines imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by 25 May 2018 and, without delay, any subsequent amendment law or amendment affecting them.

9. 如會員國之法律體系未規範行政罰鍰，而該體系確保有效之司法救濟且監管機關所裁處之行政罰鍰具有相同效力者，本條規定得由主管監管機關裁處之，並由國內管轄法院執行。無論如何，該等罰鍰應有效、適當且具懲戒性。該等會員國應於 2018 年 5 月 25 日前將其依本項規定通過之法律規定及任何後續之修法或影響該等規定之修正案通知執委會，不得遲延。

#### *Article 84*

#### 第 84 條

### **Penalties**

#### **罰則**

1. Member States shall lay down the rules on other penalties applicable to infringements of this Regulation in particular for infringements which are not subject to administrative fines pursuant to Article 83, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

1. 會員國應制定違反本規則所適用之其他罰則之規定，尤其係依第 83 條不受行政罰鍰拘束之侵權行為，並應採取一切必要措施確保該等規範得予執行。該罰則應有效、適當且具懲戒性。

2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

2. 各會員國應於 2018 年 5 月 25 日前將其依第 1 項規定通過之法律規定及任何後續影響該等規定之修正案通知執委會，不得遲延。

### *CHAPTER IX*

#### 第九章

### *Provisions relating to specific processing situations*

#### **特殊處理情況之規範**

*Article 85*

第 85 條

**Processing and freedom of expression and information**

**處理與言論及資訊自由**

1. Member States shall by law reconcile the right to the protection of personal data pursuant to this Regulation with the right to freedom of expression and information, including processing for journalistic purposes and the purposes of academic, artistic or literary expression.

1. 會員國應立法調和本規則所定個人資料保護之權利及表意自由與資訊自由，包括新聞目的及學術、藝術及或文學表意目的之處理。

2. For processing carried out for journalistic purposes or the purpose of academic artistic or literary expression, Member States shall provide for exemptions or derogations from Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries or international organisations), Chapter VI (independent supervisory authorities), Chapter VII (cooperation and consistency) and Chapter IX (specific data processing situations) if they are necessary to reconcile the right to the protection of personal data with the freedom of expression and information.

2. 基於新聞目的或學術、藝術或文學表意目的所為之處理，會員國為平衡個人資料保護及表意及資訊自由權利而有必要者，應除外於或豁免於第二章（原則）、第三章（資料主體之權利）、第四章（控管者及處理者）、第五章（個人資料移轉至第三國或國際組織）、第六章（獨立監管機關）、第七章合作及一致性）及第九章（特殊資料處理）所定規定。

3. Each Member State shall notify to the Commission the provisions of its law which it has adopted pursuant to paragraph 2 and, without delay, any subsequent amendment law or amendment affecting them.



3. 會員國應將其依第 2 項規定通過之法律規定及任何後續之修法或影響該等規定之修正案通知執委會，不得遲延。

## *Article 86*

### 第 86 條

#### **Processing and public access to official documents**

##### **官方文件之處理與公眾接近使用**

Personal data in official documents held by a public authority or a public body or a private body for the performance of a task carried out in the public interest may be disclosed by the authority or body in accordance with Union or Member State law to which the public authority or body is subject in order to reconcile public access to official documents with the right to the protection of personal data pursuant to this Regulation.

公務機關或公務機構或私人機構為履行公共利益而執行職務所持有並存在於官方文件之個人資料，得由該公務機關或機構依其所受拘束之歐盟法或會員國法律規定揭露予同受拘束之公務機關或機構，以調和公眾接近使用官方文件與本規則所定個人資料保護之權利。

## *Article 87*

### 第 87 條

#### **Processing of the national identification number**

##### **國民身分證字號之處理**

Member States may further determine the specific conditions for the processing of a national identification number or any other identifier of general application. In that case the national identification number or any other identifier of general application shall be used only under appropriate safeguards for the rights and freedoms of the data subject pursuant to this Regulation.

會員國得進一步決定就國民身分證字號或任何其他通用識別碼處理

之特定條件。國民身分證字號或任何其他通用識別碼僅應於依據本規則已對資料主體之權利及自由為適當保護措施時始得使用之。

## Article 88

### 第 88 條

#### **Processing in the context of employment**

##### **僱傭關係下之處理**

1. Member States may, by law or by collective agreements, provide for more specific rules to ensure the protection of the rights and freedoms in respect of the processing of employees' personal data in the employment context, in particular for the purposes of the recruitment, the performance of the contract of employment, including discharge of obligations laid down by law or by collective agreements, management, planning and organisation of work, equality and diversity in the workplace, health and safety at work, protection of employer's or customer's property and for the purposes of the exercise and enjoyment, on an individual or collective basis, of rights and benefits related to employment, and for the purpose of the termination of the employment relationship.

1. 會員國得以法律或團體協約規範更具體化規定，以確保僱傭關係下涉及員工個人資料處理之權利及自由，尤其是為徵才目的、包括履行法律或團體協約所規定之義務等之僱傭契約之履行、工作之管理、計畫及組織、工作場所之平等與多元性、工作之健康與安全、員工或客戶財產之保護，及個人或團體與僱傭有關之權利及福利之行使及享有之目的，以及終止僱傭關係之目的。

2. Those rules shall include suitable and specific measures to safeguard the data subject's human dignity, legitimate interests and fundamental rights, with particular regard to the transparency of processing, the transfer of personal data within a group of undertakings, or a group of enterprises engaged in a joint economic activity and monitoring systems at the work place.

2. 該等規定應包括適當及具體措施，以確保資料主體之人性尊嚴、

正當利益及基本權，尤其係關於處理之透明度、企業集團間或從事聯合經濟活動之企業團體間在工作場合中之個人資料移轉。

3. Each Member State shall notify to the Commission those provisions of its law which it adopts pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

3. 各會員國應於 2018 年 5 月 25 日前將其依第 1 項規定通過之法律規定及任何後續影響該等規定之修正案通知執委會，不得遲延。

#### *Article 89*

#### 第 89 條

### **Safeguards and derogations relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes**

#### **為實現公共利益、科學或歷史研究目的或統計目的所為 處理之保護措施及例外規定**

1. Processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner.

1. 為實現公共利益、科學或歷史研究目的或統計目的之處理，應受本規則為資料主體之權利及自由所定適當保護措施之拘束。該等保護措施應確保已備妥技術上及組織上之措施，特別是用以確保資料最少蒐集原則之落實。只要上開目的得以實現，措施得包括假名化。當透過進階處理得實現上開目的，且進階處理不允許或不再允許識別資料

主體者，上開目的應以該方式實現。

2. Where personal data are processed for scientific or historical research purposes or statistical purposes, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

2. 為科學或歷史研究目的或統計目的處理個人資料者，歐盟法或會員國法得就第 15 條、第 16 條、第 18 條及第 21 條所定之權利訂定例外規定，但須符合本條第一項所定要件及保護措施，且該權利不可能或不曾嚴重損害特定目的之實現，且該等例外係為實現上開目的所必要者。

3. Where personal data are processed for archiving purposes in the public interest, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18, 19, 20 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

3. 為實現公共利益處理個人資料者，歐盟法或會員國法得就第 15 條、第 16 條、第 18 條、第 19 條、第 20 條及第 21 條所定之權利訂定例外規定，但須符合本條第一項所定要件及保護措施，且該權利不可能或不曾嚴重損害特定目的之實現，且該等例外係為實現上開目的所必要者。

4. Where processing referred to in paragraphs 2 and 3 serves at the same time another purpose, the derogations shall apply only to processing for the purposes referred to in those paragraphs.

4. 第 2 項及第 3 項所定之處理同時適用於不同目的者，該例外規定僅適用於該項規定所定目的之處理。

## Article 90

### 第 90 條

#### **Obligations of secrecy**

#### **保密義務**

1. Member States may adopt specific rules to set out the powers of the supervisory authorities laid down in points (e) and (f) of Article 58(1) in relation to controllers or processors that are subject, under Union or Member State law or rules established by national competent bodies, to an obligation of professional secrecy or other equivalent obligations of secrecy where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy. Those rules shall apply only with regard to personal data which the controller or processor has received as a result of or has obtained in an activity covered by that obligation of secrecy.

1. 針對控管者或處理者依歐盟或會員國法或國內主管機構所訂規則負有職業或其他相應之保密義務，且調和個人資料保護權利與保密義務係適當且有必要者，會員國得就第 58 條第 1 項第 e 點及第 f 點所定監管機關之權利，訂定具體化規定。該等規定僅適用於控管者或處理者已因該保密義務所涵蓋之活動中接收或取得個人資料。

2. Each Member State shall notify to the Commission the rules adopted pursuant to paragraph 1, by 25 May 2018 and, without delay, any subsequent amendment affecting them.

2. 各會員國應於 2018 年 5 月 25 日前將其依第 1 項通過之規定及任何後續影響該規定之修正案通知執委會，不得遲延。

## Article 91

### 第 91 條

#### **Existing data protection rules of churches and religious associations**

#### **教會及宗教組織現存之資料保護規定**

1. Where in a Member State, churches and religious associations or communities apply, at the time of entry into force of this Regulation, comprehensive rules relating to the protection of natural persons with regard to processing, such rules may continue to apply, provided that they are brought into line with this Regulation.

1. 會員國境內之教會及宗教組織或社團於本規則生效時所適用關於保護當事人資料處理之一般性規範，得繼續適用，但以該等規定符合本規則者為限。

2. Churches and religious associations which apply comprehensive rules in accordance with paragraph 1 of this Article shall be subject to the supervision of an independent supervisory authority, which may be specific, provided that it fulfils the conditions laid down in Chapter VI of this Regulation.

2. 適用本條第一項所定一般性規範之教會及宗教組織，應受獨立監管機關之監督，該獨立監管機關得為專設機關，但以符合本規則第六章所定要件者為限。

## CHAPTER X

### 第十章

#### *Delegated acts and implementing acts*

#### 授權法及施行法

#### Article 92

#### 第 92 條

#### **Exercise of the delegation**

#### 授權之行使

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

1. 依本條所定之條件，賦予執委會通過授權法之權力。

2. The delegation of power referred to in Article 12(8) and Article 43(8) shall be conferred on the Commission for an indeterminate period of time from 24 May 2016.

2. 第 12 條第 8 項及第 43 條第 8 項所述之權力應自 2016 年 5 月 24 日起在一段時間內授權予執委會。

3. The delegation of power referred to in Article 12(8) and Article 43(8) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

3. 第 12 條第 8 項及第 43 條第 8 項所述之授權得由歐洲議會或歐盟理事會隨時廢止之。廢止之決定應終結該決定所載之授權。其應自公布於歐洲聯盟官方公報之日起或公布後之某日起生效。其不應影響任何已生效之授權行為的效力。

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

4. 委員會一經通過一項授權法，即應同時告知歐洲議會及歐盟理事會。

5. A delegated act adopted pursuant to Article 12(8) and Article 43(8) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

5. 依第 12 條第 8 項及第 43 條第 8 項通過之授權法，應僅有在歐洲議會或歐盟理事會皆未在受通知後三個月內表示反對，或在該期限屆

滿前歐洲議會及歐盟理事會皆通知執委會其等不會反對之情況下生效。該期限應依歐洲議會或歐盟理事會之提議延長三個月。

### *Article 93*

#### 第 93 條

### **Committee procedure**

#### 執委會之程序

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

1. 執委會應由一委員會協助。該委員會應為一歐盟規則第 182/2011 號意義上之委員會。

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

2. 於本項情形，歐盟規則第 182/2011 號第 5 條應適用之。

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

3. 於本項情形，歐盟規則第 182/2011 號第 8 條與第 5 條應一同適用之。

### *CHAPTER XI*

#### 第十一章

### *Final provisions*

#### 最終條款

### *Article 94*



## 第 94 條

### **Repeal of Directive 95/46/EC**

#### **歐盟指令第 95/46/EU 號之廢止**

1. Directive 95/46/EC is repealed with effect from 25 May 2018.

1. 歐盟指令第 95/46/EC 號自 2018 年 5 月 25 日起廢止。

2. References to the repealed Directive shall be construed as references to this Regulation. References to the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC shall be construed as references to the European Data Protection Board established by this Regulation.

2. 凡提及該廢止指令者，應被解釋為係指本規則。涉及歐盟指令第 95/46/EC 號第 29 條所設立之個人資料處理保護小組應被解釋為係指依本規則所設立之歐洲資料保護委員會。

## *Article 95*

## 第 95 條

### **Relationship with Directive 2002/58/EC**

#### **與歐盟指令第 2002/58/EC 號之關係**

This Regulation shall not impose additional obligations on natural or legal persons in relation to processing in connection with the provision of publicly available electronic communications services in public communication networks in the Union in relation to matters for which they are subject to specific obligations with the same objective set out in Directive 2002/58/EC.

關於其等應遵守歐盟指令第 2002/58/EC 號之事項，本規則不得對自然人或法人施加與在歐盟公共通信網絡中提供公共電子通信服務有關之額外義務。

## *Article 96*

## 第 96 條

### **Relationship with previously concluded Agreements**

#### **與已締結之協議之關係**

International agreements involving the transfer of personal data to third countries or international organisations which were concluded by Member States prior to 24 May 2016, and which comply with Union law as applicable prior to that date, shall remain in force until amended, replaced or revoked.

會員國於 2016 年 5 月 24 日以前締結涉及個人資料移轉至第三國或國際組織，並遵守適用於該日期以前適用之會員國法之國際協議者，其應繼續有效，直到修正、被取代或被廢止。

## *Article 97*

## 第 97 條

### **Commission reports**

#### **執委會報告**

1. By 25 May 2020 and every four years thereafter, the Commission shall submit a report on the evaluation and review of this Regulation to the European Parliament and to the Council. The reports shall be made public.

1. 2020 年 5 月 25 日以前，以及往後每四年，執委會應向歐洲議會及歐盟理事會提交關於評價及審查本規則之報告。該等報告應公開。

2. In the context of the evaluations and reviews referred to in paragraph 1, the Commission shall examine, in particular, the application and functioning of:

2. 在第 1 項所述評價及審查之範圍內，執委會應特別檢驗下列各點之適用與運作情形：

(a) Chapter V on the transfer of personal data to third countries or

international organisations with particular regard to decisions adopted pursuant to Article 45(3) of this Regulation and decisions adopted on the basis of Article 25(6) of Directive 95/46/EC;

(a) 關於第五章，即將個人資料移轉至第三國或國際組織，特別係根據本規則第 45 條第 3 項通過之裁決以及基於歐盟指令第 95/46/EC 號第 25 條第 6 項通過之裁決者；

(b) Chapter VII on cooperation and consistency.

(b) 第七章之合作及一致性。

3. For the purpose of paragraph 1, the Commission may request information from Member States and supervisory authorities.

3. 為第 1 項之目的，執委會得向會員國及監管機關請求資訊。

4. In carrying out the evaluations and reviews referred to in paragraphs 1 and 2, the Commission shall take into account the positions and findings of the European Parliament, of the Council, and of other relevant bodies or sources.

4. 在進行第 1 項及第 2 項所述之評價及審查時，執委會應考量歐洲議會、歐盟理事會及其他相關機構或來源之立場及調查結果。

5. The Commission shall, if necessary, submit appropriate proposals to amend this Regulation, in particular taking into account of developments in information technology and in the light of the state of progress in the information society.

5. 如有必要，執委會應提交適當之提案以修訂本規則，特別是考量資訊科技之發展，以及資訊社會之進展狀況。

## *Article 98*

### 第 98 條

## **Review of other Union legal acts on data protection**

### **對其他資料保護歐盟法案之審查**

The Commission shall, if appropriate, submit legislative proposals with a view to amending other Union legal acts on the protection of personal data, in order to ensure uniform and consistent protection of natural persons with regard to processing. This shall in particular concern the rules relating to the protection of natural persons with regard to processing by Union institutions, bodies, offices and agencies and on the free movement of such data.

適當時，執委會應提交修訂其他關於個人資料保護歐盟法案之修法提案，以確保對當事人有關資料處理統一及一致之保護。此尤應涉及就歐盟當局、機構、辦事處及局處之資料處理以及該等資料之流通，關於當事人保護之規範。

#### *Article 99*

#### 第 99 條

### **Entry into force and application**

#### 生效及適用

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

1. 本規則應在公布於歐洲聯盟官方公報後之第 20 日起生效。

2. It shall apply from 25 May 2018.

2. 其應自 2018 年 5 月 25 日起適用。

This Regulation shall be binding in its entirety and directly applicable in all Member States.

本規則應具有全面之拘束力，並應直接適用於所有會員國。

Done at Brussels, 27 April 2016.

完成於布魯塞爾，2016 年 4 月 27 日。

*For the European Parliament*

歐洲議會

*The President*

主席

M. SCHULZ

*For the Council*

歐盟理事會

*The President*

主席

J.A. HENNIS-PLASSCHAERT