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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 7.3.2019
replacing Annex I and amending Annexes II and VII to Regulation (EU) No
211/2011 of the European Parliament and of the Council on the citizens'
initiative

Delegations will find attached document C(2019) 1670 final.

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Brussels, 7.3.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 7.3.2019

replacing Annex I and amending Annexes II and VII to Regulation (EU) No 211/2011 of the European Parliament and of the Council on the citizens' initiative

EXPLANATORY MEMORANDUM

This delegated act aims to ensure compliance of the annexes to Regulation (EU) No 211/2011 on the citizens' initiative¹ with the provisions of the European Council Decision (EU) 2018/937 of 28 June 2018 establishing the composition of the European Parliament² and Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002³.

1. CONTEXT OF THE DELEGATED ACT

1.1. Replacement of Annex I to Regulation (EU) No 211/2011 on the citizens' initiative

Annex I to Regulation (EU) No 211/2011 provides the minimum number of required signatories per Member State. Such minima shall be reached in at least one quarter of Member States.

The numbers set out in Annex I correspond to the number of Members of the European Parliament elected in each Member State in a given parliamentary term multiplied by 750.

On 28 June 2018, the European Council adopted a Decision (EU) 2018/937 establishing the composition of the European Parliament which shall apply to the 2019-2024 parliamentary term. It anticipates the withdrawal of the United Kingdom from the European Union and increases the numbers of members of the European Parliament for Denmark, Estonia, Ireland, Spain, France, Croatia, Italy, Netherlands, Austria, Poland, Romania, Slovakia and Finland.

The 2019-2024 parliamentary term begins on 2 July 2019.

The minima set out in Annex I need to be revised accordingly.

1.2. Amendment of Annexes II and VII to Regulation (EU) No 211/2011 on the citizens' initiative

Annexes II and VII to Regulation (EU) No 211/2011 provide forms for the request by organisers for registration of a proposed initiative and for the submission of a citizens' initiative to the Commission, as foreseen in Articles 4 and 9 of the Regulation respectively.

Both forms contain a footnote entitled 'privacy statement', providing information on how initiative organisers' and sponsors' personal data are processed for the purposes of the implementation of the Regulation. In particular, they set out the scope of information to be

¹ OJ L 65, 11.3.2011, p. 1.

² OJ L 165 I, 2.7.2018, p.1.

³ OJ L 295, 21.11.2018, p. 39.

made available to the public on the Commission's online register and the conditions to object to such publication.

However, the footnotes concerned do not include full information that needs to be provided where personal data are collected from the data subjects according to Article 15 of Regulation (EU) 2018/1725, such as the identity and contact details of the controller or the contact details of the data protection officer. This detailed information should remain flexible and therefore not be incorporated in the legislative text in its entirety. It is provided in the privacy statement of the Commission's online register instead. The title of the footnote ('privacy statement') is therefore considered misleading and should be removed.

Moreover, the footnotes include a reference to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁴, which was replaced as of 11 December 2018 by Regulation (EU) 2018/1725. This reference has become obsolete and should therefore be removed.

For these reasons it is considered useful to update and simplify the footnotes concerned as follows:

- By removing the title of 'privacy statement',
- By removing the reference to Regulation (EC) No 45/2001, and
- By removing those provisions that can be directly derived from Regulation (EU) 2018/1725 and that are reflected in the privacy statement made available to relevant data subjects on the Commission's online register.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Given the limited margin of discretion that the Commission enjoys with regard to the relevant modifications, public consultations, an impact assessment and the publication of the draft act for stakeholder feedback are not necessary.

The adjustment to be made in Annex I as per Article 7(2) of the Regulation must be a strict reflection of the modification made to the composition of the European Parliament by the European Council Decision mentioned above. The delegated act thus faithfully records the adjustment that has been made by the said Decision.

Similarly, the Commission has an obligation to amend Annex II and Annex VII to adapt the Regulation to the new data protection legal framework, namely to the provisions of the Regulation (EU) 2018/1725, which repealed and replaced Regulation (EC) No 45/2001 as of 11 December 2018.

Member States have been consulted via the Commission expert group on the citizens' initiative. Their views have been taken into account in this delegated act. European Parliament experts participated in the relevant meeting of the Commission expert group and have been provided with full information and documentation on the meeting, in line with the specific

⁴ OJ L 8, 12.1.2001, p. 1.

arrangements laid down in the Framework Agreement between the European Parliament and the Commission.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 16 of the Regulation stipulates that the Commission may adopt, by means of delegated acts, in accordance with Article 17 and subject to the conditions of Articles 18 and 19 of the Regulation, amendments to the Annexes to the Regulation within the scope of the relevant provisions of the Regulation.

Article 7(2) of Regulation (EU) No 211/2011 on the citizens' initiative provides that in at least one quarter of Member States, the signatories of a citizens' initiative shall comprise at least the minimum number of citizens set out, at the time of registration of the proposed citizens' initiative, in Annex I of the Regulation.

These minimum numbers, in accordance with Article 7(2), correspond to the number of Members of the European Parliament elected in each Member State, multiplied by 750.

Article 7(3) of the Regulation provides that the Commission shall adopt, by means of delegated acts, appropriate adjustments to Annex I in order to reflect any modification in the composition of the European Parliament.

Decision (EU) 2018/937 sets out the composition of the European Parliament for the 2019-2024 parliamentary term.

Article 4(1) of the Regulation provides that prior to initiating the collection of statements of support from signatories for a proposed citizens' initiative, the organisers shall be required to register it with the Commission, providing the information set out in Annex II.

Article 9 of the Regulation provides that for the submission of the citizens' initiative to the Commission, the organisers shall make use of the form set out in Annex VII.

Article 4(4) of the Regulation provides that a proposed citizens' initiative that has been registered shall be made public in the register. Without prejudice to their rights under Regulation (EC) No 45/2001 (now replaced by Regulation (EU) 2018/1725), data subjects shall be entitled to request the removal of their personal data from the register after the expiry of a period of two years from the date of registration of a proposed citizens' initiative.

Article 4(1) of the Regulation provides that the organisers shall provide, for the register and where appropriate on their website, regularly updated information on the sources of support and funding for the proposed citizens' initiative. Moreover, Article 9 of the Regulation provides that this information shall be provided when the organisers submit the citizens' initiative to the Commission.

It also provides that the amount of support and funding received from any source in excess of which information is to be provided shall be identical to that set out in Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding⁵.

⁵ OJ L 297, 15.11.2003, p. 1.

Annexes II and VII of the Regulation each contain a footnote providing information on how initiative organisers' and sponsors' personal data are processed for the purposes of the implementation of the Regulation. Notably, it sets out the scope of information to be made available to the public on the Commission's online register and the conditions to object to such publication.

Regulation (EC) No 45/2001 was repealed and replaced by Regulation (EU) 2018/1725 as of 11 December 2018.

Article 15 of Regulation (EU) 2018/1725 defines the scope of information to be provided where personal data are collected from the data subjects.

Given the need to adapt Annexes I, II and VII, the Commission decided to adopt this delegated act.

COMMISSION DELEGATED REGULATION (EU) .../...

of 7.3.2019

replacing Annex I and amending Annexes II and VII to Regulation (EU) No 211/2011 of the European Parliament and of the Council on the citizens' initiative

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative⁶ and in particular Article 16 thereof,

Whereas:

- (1) Article 7(2) of Regulation (EU) No 211/2011 provides that, in at least one quarter of Member States, the minimum number of signatories of a citizens' initiative should correspond to the number of the Members of the European Parliament elected in each Member State, multiplied by 750. Those minimum numbers are set out in Annex I to that Regulation.
- (2) On 29 March 2017, the United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom') submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, that is to say from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (3) On 28 June 2018 the European Council adopted European Council Decision (EU) 2018/937 establishing the composition of the European Parliament⁷. That Decision, which entered into force on 3 July 2018, sets out the number of representatives in the European Parliament elected in each Member State for the 2019-2024 parliamentary term, which begins on 2 July 2019.

In order to mirror these rules with regard to the minimum number of signatories set out in Annex I to Regulation (EU) No 211/2011, it is appropriate to amend Annex I to Regulation (EU) No 211/2011. That amendment should start to apply on 2 July 2019, when the 2019-2024 parliamentary term begins. However, should the two year period referred to in Article 50(3) of the Treaty on European Union be extended beyond that date, the amendment should become applicable after the extended period has expired. For reasons of clarity, Annex I should be replaced.

⁶ OJ L 65, 11.3.2011, p. 1.

⁷ OJ L 165 I, 2.7.2018, p.1.

- (4) Article 4(1) of Regulation (EU) No 211/2011 provides that the organisers of a proposed citizens' initiative are required to register it with the Commission, providing the information set out in Annex II to that Regulation.
- (5) Article 9 of Regulation (EU) No 211/2011 provides that for the submission of the citizens' initiative to the Commission, the organisers are to make use of the form set out in Annex VII to that Regulation.
- (6) The forms in Annexes II and VII to Regulation (EU) No 211/2011 contain a footnote, providing information on how initiative organisers' and sponsors' personal data are processed. The information in that footnote needs to be shortened and simplified, in order to avoid confusion with the privacy statement used for the data processing concerned.
- (7) The text of the footnotes refers to Regulation (EC) No 45/2001 of the European Parliament and of the Council⁸. Regulation (EC) No 45/2001 was repealed and replaced as of 11 December 2018 by Regulation (EU) 2018/1725 of the European Parliament and of the Council⁹. The reference to Regulation (EC) No 45/2001 should thus be removed from those footnotes.
- (8) Annex I to Regulation (EU) No 211/2011 should therefore be replaced and Annexes II and VII to that Regulation should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 211/2011 is amended as follows:

(1) Annex I is replaced by the text set out in the Annex to this Regulation;

(2) in Annex II, the text in the footnote ⁽¹⁾ is replaced by the following:

”⁽¹⁾ Only the full names of the organisers, the e-mail addresses of the contact persons and information relating to the sources of support and funding, will be made available to the public on the Commission's online register.

Data subjects are entitled to object to the publication of their personal data on compelling legitimate grounds relating to their particular situation.”;

(3) in Annex VII, the text in the footnote ⁽¹⁾ is replaced by the following:

⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

”(1) Only the full names of the organisers, the e-mail addresses of the contact persons and information relating to the sources of support and funding, will be made available to the public on the Commission’s online register.

Data subjects are entitled to object to the publication of their personal data on compelling legitimate grounds relating to their particular situation.”.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Point 1 of Article 1 shall apply from 2 July 2019 or from the day following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, whichever is the later.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7.3.2019

For the Commission
The President
Jean-Claude JUNCKER
