Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council of 25 March 2019 amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

REGULATION (EU, Euratom) 2019/493 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 March 2019

amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 224 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council[(3)] established a specific European legal status for European political parties and European political foundations and provides for their funding from the general budget of the European Union. It also established an Authority for European political parties and European political foundations (‘the Authority’).

(2) In order to enable the Authority to fully fulfil its tasks, including the new ones provided for in this Regulation, and to enable it to do so in an independent manner, it is necessary to staff it in a permanent way and to confer the powers of an appointing authority on the Director of the Authority.

(3) Recent events have demonstrated the potential risks to electoral processes and to democracy that can arise from the unlawful use of personal data. It is therefore necessary to protect the integrity of the European democratic process by providing for financial sanctions in situations where European political parties or European political foundations take advantage of infringements of rules on protection of personal data with a view to influencing the outcome of elections to the European Parliament.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council. (See end of Document for details)*

(4) To that end, a verification procedure should be established whereby the Authority must, in certain circumstances, ask the committee of independent eminent persons established by Regulation (EU, Euratom) No 1141/2014 to assess whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data. Where, in accordance with the verification procedure, that is found to be the case, the Authority should impose sanctions under the effective, proportionate and dissuasive sanctioning system established by Regulation (EU, Euratom) No 1141/2014.

(5) When the Authority imposes a sanction on a European political party or foundation in accordance with the verification procedure, it should take due account of the *ne bis in idem* principle, whereby sanctions cannot be imposed twice for the same offence. The Authority should also ensure that the principle of legal certainty is respected and that the European political party or European political foundation concerned has been given the opportunity to be heard.

(6) The new procedure should exist alongside the current procedures used for the verification of compliance with registration conditions and in cases of manifest and serious breaches of the values on which the Union is founded. However, the time limits for verification of compliance with registration conditions and requirements set in Article 10 of Regulation (EU, Euratom) No 1141/2014 should not apply to the new procedure.

(7) Since the new procedure is triggered by a decision of a competent national data protection supervisory authority, it should be possible for the European political party or European political foundation concerned to request that the sanction be reviewed if the decision of that national supervisory authority is repealed, or a remedy against that decision has been granted, provided that all national remedies have been exhausted.

(8) In order to ensure that the 2019 elections to the European Parliament take place in accordance with strong democratic rules and in full respect of the European values of democracy, rule of law and respect of fundamental rights, it is important that the provisions on the new verification procedure enter into force in timely manner and that the procedure applies as soon as possible. In order to achieve this, the amendments to Regulation (EU, Euratom) No 1141/2014 introduced by this Regulation should enter into force on the date of its publication in the *Official Journal of the European Union*.

(9) Regulation (EU, Euratom) No 1141/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU, Euratom) No 1141/2014 is amended as follows:

(1) In Article 6, paragraph (5) is replaced by the following:

5. The Director of the Authority shall be assisted by staff in respect of whom he or she shall exercise the powers conferred on the appointing authority by the Staff Regulations of Officials of the European Union and the powers conferred on the

authority empowered to conclude contracts of employment of other servants by the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (‘the appointing authority's powers’). The Authority may make use in any areas of its work of other seconded national experts or of other staff not employed by the Authority.

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and Conditions of Employment of Other Servants shall apply to the staff of the Authority.

The selection of the staff shall not be liable to result in a conflict of interests between their duties at the Authority and any other official duties, and they shall refrain from any act which is incompatible with the nature of their duties.

(2) In Article 10(3), the third subparagraph is replaced by the following:

> The procedures laid down in the first and second subparagraphs shall not be initiated within a period of two months prior to elections to the European Parliament. That time limit shall not apply with regard to the procedure set out in Article 10a.

(3) The following Article is inserted:

Article 10a

Verification procedure related to infringements of rules on the protection of personal data

1 No European political party or European political foundation shall deliberately influence, or attempt to influence, the outcome of elections to the European Parliament by taking advantage of an infringement by a natural or legal person of the applicable rules on the protection of personal data.

2 If the Authority is informed of a decision of a national supervisory authority within the meaning of point 21 of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council[(4)] finding that a natural or legal person has infringed applicable rules on the protection of personal data, and if it follows from that decision, or if there are otherwise reasonable grounds to believe, that the infringement is linked to political activities by a European political party or a European political foundation in the context of elections to the European Parliament, the Authority shall refer this matter to the committee of independent eminent persons established by Article 11 of this Regulation. The Authority may, if necessary, liaise with the national supervisory authority concerned.

3 The committee referred to in paragraph 2 shall give an opinion as to whether the European political party or European political foundation concerned has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of that infringement. The Authority shall request the opinion without undue delay, and no later than 1 month after being informed of the decision of the national supervisory authority. The Authority shall set a short, reasonable deadline for the committee to give its opinion. The committee shall comply with that deadline.

4 Having regard to the committee's opinion, the Authority shall decide, pursuant to point (a)(vii) of Article 27(2), whether to impose financial sanctions on