

Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA

CHAPTER V

Transfers of personal data to third countries or international organisations

Article 39

Transfers of personal data to recipients established in third countries

1 By way of derogation from point (b) of Article 35(1) and without prejudice to any international agreement referred to in paragraph 2 of this Article, Union or Member State law may provide for the competent authorities referred to in point (7)(a) of Article 3, in individual and specific cases, to transfer personal data directly to recipients established in third countries only if the other provisions of this Directive are complied with and all of the following conditions are fulfilled:

- a the transfer is strictly necessary for the performance of a task of the transferring competent authority as provided for by Union or Member State law for the purposes set out in Article 1(1);
- b the transferring competent authority determines that no fundamental rights and freedoms of the data subject concerned override the public interest necessitating the transfer in the case at hand;
- c the transferring competent authority considers that the transfer to an authority that is competent for the purposes referred to in Article 1(1) in the third country is ineffective or inappropriate, in particular because the transfer cannot be achieved in good time;
- d the authority that is competent for the purposes referred to in Article 1(1) in the third country is informed without undue delay, unless this is ineffective or inappropriate;
- e the transferring competent authority informs the recipient of the specified purpose or purposes for which the personal data are only to be processed by the latter provided that such processing is necessary.

2 An international agreement referred to in paragraph 1 shall be any bilateral or multilateral international agreement in force between Member States and third countries in the field of judicial cooperation in criminal matters and police cooperation.

3 The transferring competent authority shall inform the supervisory authority about transfers under this Article.

4 Where a transfer is based on paragraph 1, such a transfer shall be documented.