

BM66 – VIENNA

7b14



Internal motion

Resolution

Amendment

Title: Resolution expressing concern about the contents of a recent legislation of the Maltese government potentially infringing students' data protection

Point of the agenda:

Proposed by: KSU

Seconded by: SUS, NSUM, SKONUS, CSC, ANOSR, LA FAGE, NUIS, POFE, ÖH

Text:

1 The European Students' Union (ESU) supports KSU's proposals and
2 recommendations regarding the contents of Legal Notice 76 of 2014, which
3 gives the Minister of Education and Employment in Malta the right to ask
4 for and receive sensitive and personal information about students
5 registered at every educational institution from early childhood education
6 to tertiary education.

7 This Legal Notice gives extensive powers to the Maltese Minister, who will
8 personally have access to personal information (including, but not limited
9 to, personal identification numbers and academic achievement) on every
10 student in Malta and Gozo. There is no opt-out clause through which
11 institutions can choose not to divulge the personal information of the
12 students enrolled with them.

13 ESU requests more clarity on the purpose of the research exercises to be
14 carried out and what kind of measures are or will be taken, to ensure the
15 anonymous and correct use of this sensitive information. In this regard, ESU
16 highly recommends to put in place changes, to ensure that every student in
17 Malta as well as their relatives, are empowered to decide how information
18 that they have already provided, or will provide, is used.

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19 In the light of this development, ESU encourages the ministry to tackle the
20 loopholes in the current legislation and ensure it safeguards students' data
21 protection rights in the following ways:

22 **1. The use of pseudonymised data**

23 Although ESU has been reassured by the national student union, KSU, that
24 the intentions behind this legislation appear to be genuine, ESU still
25 strongly feels that in its present form, it is open to abuse and potentially
26 breaches data protection rights. For this reason, ESU strongly advocates the
27 use of a pseudonymised system where students' data can be linked to
28 other information for the purposes of the research exercises being carried
29 out without being immediately identifiable.

30 In this regard, ESU advocates for KSU's proposal that data should remain
31 anonymised, unless explicitly required under a set of justified conditions,
32 such as contacting the individual in person. Data relating should only be
33 requested when it is really required.

34 **2. Clearer identification of the scope of the legislation**

35 ESU feels that the legislation should contain a more elaborate description
36 of the scope and exercises to be carried out for each scheme.

37 In this regard, ESU strongly suggests that the text should be clarified and
38 expanded into a more robust form of legislation. ESU also agrees with KSU's
39 suggestions to ensure that the depth of the information required, reflects
40 the broadness and the intentions behind the intended research. This would
41 clarify what purpose the legislation serves, while also improving public
42 perception and trust in the system.

43 **3. The transfer of responsibility to an entity**

44 One of ESU's main concerns, reflected in KSU's claims, is the fact that the
45 legal notice mentions in particular the data being passed on to the Minister.
46 In the context of this legislation, it can be seen as granting a single
47 individual disproportionate powers, which leaves the system potentially
48 open to abuse, even if that is not the current intention.

49 In the light of this, ESU firmly recommends that the responsibility is
50 transferred to a particular entity tasked with research, where the
51 appropriate checks and balances can be put, or are already, in place.

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52 **4. The inclusion of opt-out options**

53 Finally, ESU believes that in light of the schemes proposed, students (or
54 their guardians) should be offered the possibility to opt-out of the data
55 mining exercise should they wish for their data not to be passed on. As the
56 legislation currently stands, there exists no particular option for this, and it
57 will actually be considered as a criminal offence to refuse to provide thus
58 data.

59

Passed: **YES** **NO**

(for use of board meeting chair only!)