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**LIMITE**

**CRIMORG 3  
DROIPEN 2  
ENFOPOL 3  
DATAPROTECT 1  
COMIX 26**

**NOTE**

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from : Hungarian delegation  
to : Multidisciplinary Group on Organised Crime

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COMIX 642 + ADD 1

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No. Cion prop. : COM(2005) 475 final

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Subject : Council Framework Decision on the protection of personal data processed in the  
framework of police and judicial cooperation in criminal matters

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*1. Complement the Preamble with the next new paragraphs bis (1):*

“bis (1) According to Article 6. of the Treaty on European Union the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States. The Union shall respect fundamental rights, among them the rights of privacy and the protection of personal data, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.”

## Explanation

One of the most important principles of the European Union is to respect fundamental rights, among them the rights of privacy and the protection of personal data as they result from the constitutional traditions common to the Member States. These traditions include the principle of proportionality, the right to privacy and the right to security. The goal of the framework decision should be to provide guarantees ensuring the respect of privacy in the framework of restrictions necessary for the protection of the right to security. It is important therefore to refer to Art. 6. of the Treaty on European Union as one of the basic principles of the framework decision.

### 2. Complement the Preamble with a next new paragraph bis (8/1):

„bis (8/1) This framework decision is without prejudice to essential national security interests, and it should not jeopardize the success of specific intelligence activities in the field of State security”

## Explanation

It has to be explicit clarified that this framework decision should not be applicable in the field of State security.

### 3. Complement the Preamble with the next new paragraph bis (8/2):

“bis (8) The balance between powers necessary to the combat against crime and the restrictions necessary to protect private life shifts continually with the progress of information technology. This technology enables the police to fulfill their tasks more effectively. Should information technology not be regulated properly, the new abilities of the police might affect the private life of the citizens adversely. The possibility to use new technology should be accompanied by legal guarantees in cases where the use of technology by the police interferes with private life.”

## Explanation

It is necessary to determine in the framework decision the general provisions of processing criminal data by using new technologies such as Internet, video surveillance, methods which may pose a great risk to privacy.

4. Amend paragraph (20) of the Preamble as follows:

“(20) The present Framework Decision is without prejudice to the specific data protection provisions laid down in the relevant legal instruments relating to the processing and protection of personal data by Europol, Eurojust and the Customs Information System and to the relevant provisions of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.”

**Explanation**

The Framework Decision lays down the general provisions applicable in the field of criminal procedure. These provisions don't preclude the possibility to apply the specific data protection provisions of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. Therefore it would be proper to refer to this latter instrument in the Preamble as well.

5. Amend paragraph (24) of the Preamble as follows:

(24) (.....) Any reference to the Recommendation Nr. R(87) 15 regulating the use of personal data in the police sector of the Council of Europe should be read as reference to this Framework Decision.

**Explanation**

1. It is suggested to delete the sentence referring to the replacement of the provision of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, because the detailed rules of this Framework Decision don't obstruct the application of the rules of the Convention concerning data protection.

2. The 1987 Recommendation deals with police data as it was perceived in the late eighties. Criminal intelligence files and other new technologies were not as evolved as they are nowadays. Since the framework decision includes the main provisions of the Recommendation R. 87 (15) as well as further new provisions, which tackle the new challenges, it would be more advantageous to apply the provisions of the framework decision instead of the Recommendation.

*6. Complement the Preamble with a next new paragraph bis (32):*

bis (32) This Framework Decision is without prejudice to the provisions of the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal data and its Additional Protocol of 2001 regarding supervisory authorities and transborder data flows.

### **Explanation**

The Convention and the Additional Protocol contain the general principles of the data protection which can work together with the specific provisions of the Framework Decision, therefore it is suggested that the provisions of these international instruments shall be referred to.

*7. Amend and complement Art. 1. paragraph 1 as follows:*

1. This Framework Decision provides the adequate common protection to ensure the protection of individuals with regard to the processing of their personal data in the framework of police and judicial co-operation in criminal matters, provided for by Title VI of the Treaty on European Union.

### **Explanation**

It is necessary to make clear that the framework decision is intended to provide an adequate protection of personal data that is common to the Member States.

*8. Amend and complement Art. 1. paragraph 2. as follows:*

2. Member States shall ensure that the transmission of personal data to the competent authorities of other Member States is neither restricted nor prohibited for reasons connected with the protection of personal data as provided for in this Framework Decision.

### **Explanation**

The term of “disclosure” shall be replaced with “transmission”, because the former means to make the data generally available, while the meaning of this provision might not be this. Instead the provision should refer to the transfer of the data only to the competent authorities. For this reason the term of expression “transmission” is suggested.

#### 9. Complement Art. 2. with new paragraphs Bis a) and aa)-ac) as follows :

Bis (a) ‘special categories of data’ shall mean personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, personal data concerning health or sex life and personal data relating criminal offences.

aa) “Personal data relating to criminal offences (criminal personal data): shall mean personal data that might be related to the data subject during or prior to criminal proceedings in connection with a criminal offence or criminal proceedings and the data relating to criminal convictions;

ab) “Biometrics” refers to systems that use measurable, physical or physiological characteristics or personal behavior traits to recognize the identity, or verify the claimed identity of an individual;

ac) “Criminal intelligence” Data collected about persons there are indications before beginning of criminal procedure that they are involved in committing or preparing serious crime. Criminal intelligence implies the profiling of the alleged criminal, his behavior, his contacts and his way of life without significant relevance with regard to a specific criminal offence.

## Explanation

1. We suggest defining the specific categories of data in Art. 2. Furthermore we suggest completing these definitions with category of “criminal personal data”. Although the Article 6 of Convention 108 defines only the data relating to criminal convictions, as special category of data, we have to make it clear that criminal data about persons who are not yet convicted are even more sensitive, since the data subject has not yet been convicted by an impartial tribunal on the basis of legally collected evidence in accordance with article 6 of the Human Rights Convention. Therefore the domestic legislation concerning the processing of these kinds of data has to provide at least the same safeguards than in the case of criminal conviction data.

2. We suggest defining the meaning of criminal data, criminal intelligence data and biometric data since these latter are the new challenges for the legislation in this field.

### *10. Amend Art. 2. paragraph (d) as follows :*

(d) 'controller' shall mean the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data under the authorization of national law ; where the purposes and means of the processing are determined by national law or by law adopted in accordance with Title VI of the Treaty on European Union, the controller or the specific criteria for his nomination may be designated by national law or by law under Title VI of the Treaty on European Union;

## Explanation

For ensuring the rule of law it is important that not only the controller as such may be designated by law but also the purposes and means of processing of personal data have to be in accordance with the national legislation.

*11. Amend Art. 2. paragraph (j) as follows :*

(j) ‘competent authorities’ shall mean police (.....), customs, judicial and other authorities of the Member States that are authorized by national law to detect, prevent, investigate or prosecute offences or criminal activities within the meaning of Article 29 of the Treaty on European Union.

**Explanation**

We suggest defining the meaning of “competent authorities” more precisely in the light of the scope of this Framework Decision.

*12. Amend Art. 3. paragraph 1. as follows:*

1. This Framework Decision shall apply to the processing of personal data wholly or partly by automatic means, and to the processing otherwise than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system by a competent authority for the purpose of the prevention, detection, investigation, and prosecution of criminal offences.

**Explanation**

The course of the criminal procedure starts with the prevention, which is followed by detection and investigation. Therefore is suggested that the sequence of the words “prevention” and “detection” shall be changed.

*13. Amend and complement Art. 3. paragraph 2. as follows:*

2. This Framework Decision shall (...) apply to the processing of personal data by

- the European Police Office (Europol),
- the European Judicial Cooperation Unit (Eurojust),
- the Customs Information System as set up according to the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes, and any amendments made thereto without prejudice to the rules of the relevant International Conventions and European regulations relating to these institutions.

## Explanation

The general provisions of the Framework Decision are suited for the parallel application of the specific data protection provisions of the Europol Convention, the Convention on Customs Information System and the Eurojust Decision. It is suggested therefore to apply the Framework Decision with regard to these fields without prejudice the provisions to the rules of the relevant conventions and other instruments.

### *14. Amend the introductory provision of Art. 4. paragraph 1. as follows:*

1. Member States shall provide that criminal personal data must be:

## Explanation

The scope of the Framework Decision does not apply to the processing of personal data in general, but specifically to the processing of criminal personal data. We suggest therefore to precise this reference.

### *15. Rearrange paragraph 3 of Art. 4. and replace it after the end of Art. 6.*

## Explanation

The provisions of Art. 4. contains the general principles relating to data quality while the paragraph 3 of Art 4 has reference to provisions related specific categories of data subject. For the sake of the perspicuity of the text our point of view is that the specific provisions should not forestall the general ones.

### *16. We suggest amending Art. 4. paragraph 4. as follows:*

- 4.. Member States shall provide that processing of criminal personal data is (...) necessary only if

- there are, based on established facts, reasonable grounds to believe that the personal data concerned would make possible, facilitate or accelerate the (...) prevention, detection, investigation, or prosecution of a criminal offence, and
- there is no other means less affecting the data subject (...)
  - (.....)

**Explanation**

1. In the introductory provision we suggest only linguistic amendment.

2. We suggest deleting the last sentence of the paragraph relating to the processing of data that are excessive in relation to the offence concerned. Our reason is that the provision concerned would raise difficulties for the practical application.

*17. Amend Art. 5. as follows:*

Member States shall provide that criminal personal data may be processed by the competent authorities only if provided for by a law setting out that the processing is necessary for the fulfillment of the legitimate task of the authority concerned (...) in relation with the purpose of the (...) prevention, detection, investigation, or prosecution of criminal offences.

**Explanation**

The legitimate criteria for criminal data processing should only be the fulfillment of the tasks of the authorities concerned related with the purpose of the criminal procedure. These authorities have other legitimate tasks as well. The fulfillment of these latter should not form a legal basis for the processing of criminal personal data.

*18. Complement the Proposal with a new Art. Bis 6/1. as follows :*

*Article Bis 6/1.*

*Processing of biometric and genetic data*

1 Biometric and genetic data for police purposes may be processed only if it is provided by law and is used for well established specific criminal purposes. Member States should use DNA data

only for the purpose of providing information that can connect a person to crime scenes and identify links between crimes, to detect repeat criminals, to exonerate innocent suspects and to identify unidentified corps or a missing person.

2. Member States shall ensure that during the process of collection and use of bodily features, human dignity should be fully respected.

3. Member States must make a choice between verification and identification functions of biometrics. Identification problems should not be solved by verification solutions. Biometric data that are solely used for verification purposes should be stored only on a secured individual storage medium e.g. a smart card, held by the data subject only and should not be processed in a filing system.

4. Member States shall ensure that genetic data should not be transmitted to private parties without the explicit consent of the data subject to the specific transfer.

5. Biometric identification should not constitute the unique way of identification or unique access key to further information. The accuracy of biometrics has to be controlled regularly.

6. Member States should exchange DNA data only on a case-by-case basis upon request to compare a profile from another Member State to their own data base, or via common international data communication channels.

7. Member States shall implement the provisions laid down in paragraph (1) – (6) relating DNA without prejudice the provisions of Council Resolution of 25 June 2001 on the exchange of DNA analysis results.

### **Explanation**

1. Recently there is a growing pressure on law enforcement authorities to identify individuals by use of biometrics by for the purpose of fight against crime. The application of biometrics raises important human rights concerns. The integrity of the human body and the way it is used with regard to biometrics constitute an aspect of human dignity. Article 8 of European Convention on Human Rights has particular relevance for biometrics. On one hand human dignity should be fully

respected during the process of collection and use of bodily features. On the other hand the collection of personal data in view of their automatic processing raises specific questions of data protection, in particular as it is sometimes unavoidable that biometric data might reveal unnecessary sensitive data (information about certain illnesses or physical handicaps e.g.) The basic conditions and safeguards of the processing of biometric data by law enforcement authorities for the purpose of fight against crime have to be therefore defined in the framework decision.

2. Our proposal for Art. Bis 6/1 is in accordance with the Progress report on the application of the principles of Convention 108 to the collection and processing of biometric data proposed by the Consultative Committee of the Council of Europe and with the Opinion of the European Data Protection Supervisor regarding the proposal of the SiS II. regulation.

19. Complement the Proposal with a new Art. Bis 6/2. as follows :

Article Bis 6/2.

Specific provisions for processing of criminal intelligence data

1. Personal data obtained by specific investigation techniques should be processed only with specific guaranties which should be done with prior, in urgent cases subsequent, authorization of a judicial authority. Should the judicial authority not give the subsequent authorization for the processing of the criminal intelligence data, the controller shall delete the stored data immediately. Time limit for periodic review made by the judicial authority or by other authorized authority of continued storage should be required.

2. The criminal intelligence data obtained by specific investigation techniques shall be processed for the purpose of prevention, detection, investigation and prosecution of serious organized crime, or crimes of a comparable threat to society, terrorist offences. Member States shall explicitly define for what purpose the collection of criminal intelligence data using specific investigation techniques can be accomplished.

3. The law should be explicit about the circumstances under which the data subject should be informed, or the data subject should be restricted or refused of giving information to him/her about the processing of his/her data processed as a criminal intelligence data.

## **Explanation**

The area of criminal intelligence is a new phenomenon of criminal detection and investigation and due to this it is not specifically dealt with in the Recommendation R. 87 (15). Criminal intelligence collects data about persons on the basis of mere indications that they are involved in committing or preparing crime. Police and judicial powers in most national Codes of criminal procedure are limited to act in cases in which there is a suspicion of a specific criminal offence. Contrary to this: new information technology is increasingly used for the storage of data about persons, without any relation of specific criminal offences and without well established standards which has to be met by police authorities applying these kind of powers. Therefore it is important to establish the necessary guaranties of the processing of criminal data by the law enforcement authorities in the procedures beyond the pale of criminal procedure law for the sake of the appropriate protection of privacy.

20. Complement the Proposal with a new Art. bis 6/3. as follows :

1 Matching, data mining and other forms of processing of personal data by the means of general data surveillance shall be limited to specific cases described by law and as it is appropriate be granted on the basis of a special judiciary mandate. Member States should not make possible the “bull” transfer of data stored by the means of general data surveillance.

2. The storage of the data of the non-suspected persons by the methods mentioned in paragraph 1 in the course of an investigation can be justified only for the time period that is needed to find out whether the person concerned is involved in the investigation. Should the person not be related to the investigation the data related to that person shall be deleted immediately unless compatible use or other use explicitly permitted by law allows the procession of the data.

## **Explanation**

New information technology is increasingly used to store data about criminals as persons as such, without related specific criminal offences. It has to be specific safeguards which must be fulfilled in

order to apply the powers conferred on the police in the national law for using these specific methods.

21. Complement the Art. Bis 6/4. [former Art. 4 paragraph (3)] with the next new paragraphs (2) – (3) as follows :

(2) Member States shall provide the protection of personal data of victims and witnesses in line with the provisions of the European Union law regarding the protection of their rights.

(3) The personal data of victims, witnesses, and the contacts or associates to one of the persons mentioned in paragraph (1) should be used only in the specific criminal case or for the purpose of the protection of these person's rights.

### **Explanation**

National legislation has to provide specific safeguards concerning the processing of personal data of victims, witnesses and unsuspected persons contact or associate to the suspected persons in order to guarantee the proportional use of their personal data by the police authorities.

22. Amend Art. 7 and complement with the next new paragraphs bis (2) – (3) as follows :

1. Member States shall provide that personal data shall be stored for no longer than necessary for the purpose for which it was collected. The maximum length of the storage period should be accounted on the basis of the prescription period of the specific criminal offence of which the data are related.

2. The data collected by the competent authorities may be further processed and conserved only for the purpose of rehabilitation of convicted persons, for social reinsertion of convicted person having completed their sentences and to recognize persistent offenders and in unsolved cases.

3 After the storage period referred in paragraph 1 is over, the data should be deleted, or archived, or be kept anonymised for the purposes of historical, scientific or statistical research.

## Explanation

The length of the storage of criminal personal data should be specified in the national legislation on the basis of the prescription period as a general time limit. Further procession should be granted by law only for the purpose of rehabilitation of convicted persons, for social reinsertion of convicted person having completed their sentences and to recognize persistent offenders or in unsolved cases. The use of criminal personal data for historical, scientific or statistical purposes after the limited period should only be proportional and lawful if the data are anonymised.

### 23. Amend Art. 8. as follows:

Member States shall provide that criminal personal data shall only be transmitted or made available to the competent authorities of other Member States if necessary for the fulfillment of a legitimate task of the transmitting or receiving authority and for the purpose of (...) prevention, detection, investigation, or prosecution of criminal offences.

## Explanation

See Explanation to point 12.

### 24. Complement Art. 9. paragraph 8. as follow:

8. If personal data were transmitted without request the receiving authority shall verify without delay whether these data are necessary for the purpose for which they were transmitted. The receiving authority has to delete the data immediately if established that it is not necessary for the purpose the data has been transmitted for.

## Explanation

If the receiving authority establishes that the data are not necessary for the purpose for which they were transmitted, the further processing will be unlawful and therefore have to be deleted as soon as possible.

25. Amend Art. 10. paragraph 3 as follows:

3. The authority that has logged or documented such information shall communicate it without delay to the competent supervisory authority on request of the latter. The information shall only be used for the control of data protection and for ensuring proper data processing as well as data integrity and security and for the purpose of ensuring the proper information to the data subject about the transfer of his/her data if requested.

#### **Explanation**

On the basis of the information logged about the transferred data the data controller, if requested, should inform the data subject about such data processing.

26. Delete Art. 11 paragraph 1. (b) .

#### **Explanation**

As regards the paragraph j of Art. 2. the competent authority shall process the criminal personal data only for the purpose of the prevention, detection investigation or prosecution of criminal offences. This implies that these are the only legitimate purposes for transmission. Paragraph 1. (b) of Art. 11. is therefore needless.

27. Amend Art. 12. paragraph c) as follows:

(c) the transmission or making available is necessary for (.....) the purpose of the prevention, investigation, detection or prosecution of criminal offences or for the purpose of the prevention of threats to public security or to a person, except where such considerations are overridden by the need to protect the interests or fundamental rights of the data subject.

## Explanation

See explanation to point 26.

28. Amend Art. 13. paragraph b) as follow:

(b) the transmission is necessary (.....) for the purpose of the prevention (.....) of criminal offences or for the purpose of the prevention of threats to public security or to a person, or is necessary for the vital interest of other person ,

or

necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfill its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is (.....) for the purpose of the protection of public security or public order.

29. Amend Art. 14. and complement with new paragraphs bis (b) and (d) – (e) and paragraph 2:

(b) the transmission is necessary for the purpose (.....) of the prevention (.....) of criminal offences or for the purpose of the prevention of threats to public security or to a person, except where such considerations are overridden by the need to protect the interests or fundamental rights of the data subject, and or

bis.b) the transmission is necessary for the purposes of carrying out the obligations and specific rights of the controller in the field of label law or in so far as it is authorized by national law providing for adequate safeguards; and

(c) the competent authority of the Member State that has transmitted or made available the data concerned to the competent authority that intends to further transmit them has given its prior consent to their further transmission to private parties, or

(d) the competent supervisory authority has authorized the transmission of criminal data to private parties, or

(e) the data subject has given his/her prior consent for transmission of his/her data to private parties.

(2) Member States should not transmit special categories of data to private parties without the prior and explicit consent of the data subject.

### **Explanation**

The text has to define the circumstances of the transfer of criminal personal data to private parties more precisely than the transfer to police or administrative authorities. Transfer of personal criminal data to private parties shall be possible only if certain specific safeguards exist defined by law or by the national supervisory authorities.

30. Amend Art. 15. paragraph 1 (introductory provision) and paragraph 2.

1. Member States shall provide that criminal personal data received from or made available by the competent authority of another Member State are not further transferred to competent authorities of third countries or to international bodies except if such transfer is in compliance with this Framework Decision and, in particular, all the following requirements are met.

2. Member States shall ensure that the adequacy of the level of protection afforded by a third country or international body shall be assessed in the light of all the circumstances for each transfer or category of transfers. In particular, the assessment shall result from an examination of the following elements: the type of data, the purposes and duration of processing for which the data are transferred, the country of origin and the country of final destination, the general and sectoral rules of law applicable in the third country or body in question, the professional and security rules which are applicable there, as well as the existence of sufficient safeguards ensuring the rights of data subject as it is provided for in Article 19-21. of this Framework Decision and the possibility for the data subject to have an effective remedy before an independent authority put in place by the recipient of the transfer.

### **Explanation**

The third country fulfils the adequacy requirements only if the basic data protection rights of the data subject and the possibility of an effective remedy before an independent authority are ensured. This has to be declared by the third country before the criminal personal data are transferred.

31. Place Art. 16. after Art.32.

### **Explanation**

It is important that a Committee of experts assists to the Commission in its legislative tasks in connection with data protection in the field of police and judicial cooperation, therefore this has to be defined as the task of the Committee in a general manner.

32. Amend the introductory provision of Art. 19.

1. Member States shall provide that the controller or his representative must provide a data subject from whom data relating to him are collected with his knowledge with at least the following information free of cost, except where he already has it or has been provided with:

### **Explanation**

This proposal is suggested for linguistic reasons.

33. Delete point a) of Art 19. paragraph (2), Art. 20. paragraph (2) and Art. 21. paragraph (2).

### **Explanation**

The necessity to enable the controller to fulfill its lawful duties properly is neither a sufficient nor a proportionate reason to restrict the basic data protection rights of the data subject.

34. Amend Art. 30 paragraph 7.

7. The supervisory authorities shall cooperate with one another as well as with the supervisory bodies set up under Title VI of the Treaty on European Union and the European Data Protection Supervisor and the 29. Working Party set up by the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data to the extent necessary for the performance of their duties, in particular by exchanging all useful information.

### **Explanation**

Under the third pillar the supervisory authorities have to cooperate with the 29 Working party also, since there are data protection problems in which they have mutual interest.

#### 35. Complement the Art. 30

#### Article 30 bis

Member States shall provide that the controller, in compliance with the national law which governs him, shall appoint a personal data protection official, responsible in particular:

- for ensuring in an independent manner the internal application of the national provisions taken pursuant to this Framework Decision

- for keeping the register of processing operations carried out by the controller, containing the items of information referred to in Article 25 (1).

thereby ensuring that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations.

### **Explanation**

The appointment of an inside data protection officer by the controller in the field of the criminal police and judicial cooperation, and in particular by the law enforcement authorities is important to ensure the necessary safeguards for the processing of criminal data.

36. Amend Art. 31. paragraph 2.

2. The Working Party shall be composed of a representative of the supervisory authority or authorities designated by each Member State, of a representative of the European Data Protection Supervisor, and of a representative of the Commission. Each member of the Working Party shall be designated by the institution, authority or authorities which he represents. Where a Member State has designated more than one supervisory authority, they shall nominate a joint representative. The chairpersons of the joint supervisory bodies set up under Title VI of the Treaty on European Union and the chairperson of the 29. Working Party set up by the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data shall be entitled to participate or to be represented in meetings of the Working Party. The supervisory authority or authorities designated by Iceland, Norway and Switzerland shall be entitled to be represented in meetings of the Working Party insofar as issues related to the Schengen Acquis are concerned.

### **Explanation**

See explanation to point 34.

37. Replace Art. 16. as amended Art. 32 bis:

### *Committee*

1. (...) The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The Committee shall assist the Commission when reference is made to the Art. 15, on amendments concerning to this Framework Decision, on additional or specific measures to safeguard the rights and freedoms of natural persons with regard to the processing of personal data for the purpose of the prevention, investigation, detection and prosecution of criminal offences and on any other proposed measures affecting such rights and freedoms.

## Explanation

See explanation to point 31.

### 38. Delete Art. 34. paragraph 1 and amend paragraph 2

2. Any reference to the (.....) the Recommendation Nr. R(87) 15 regulating the use of personal data in the police sector of the Council of Europe shall be construed as a reference to this Framework Decision.

## Explanation

See explanation to Preamble 24. paragraph 4.

### 39. Complement Art. 35. with the new paragraph 3. as follows:

“3. By the same date Member States shall notify to the Commission and the Member States the competent national authorities referred in point (j) of Art 2.”

## Explanation

It will be helpful for the Member States to inform each other about the competent authorities participating in the information exchange under this Framework Decision.

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