

## **Comments from the Working Party on Police and Justice with respect to the proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters**

The European Data Protection Authorities, working together in the Working Party on Police and Justice, took note of the recent developments concerning this proposal.

Recalling the statements made earlier by the European Conference of European Data Protection Authorities<sup>1</sup>, the Working Party on Police and Justice stresses the need for a harmonized approach aimed at ensuring a common set of principles for the protection of individuals with regard to the processing of their personal data for police and law enforcement purposes.

In this respect, it should be recalled that the European States committed themselves to fully complying with Council of Europe Convention 108 of 1981 whose binding principles also cover the activities in the police and law enforcement field. Those principles were subsequently complemented by the adoption by the Committee of Ministers of a specific Recommendation (R (87) 15) regulating the use of personal data in the police sector, and by two Additional Protocols.

In the light of the existing legal framework, which has been relied upon and confirmed, in particular, by the Schengen and Europol Conventions, it is especially urgent to ensure that the level of protection to be afforded should not be lower than that currently set out in the existing and binding legal instruments.

The WPPJ stresses that for certain aspects the current text of the proposal does not provide for the same level of protection as defined in Convention 108. This certainly seems to be the case with the provision on the further use of data received from a Member State (Articles 3 and 12) and the right of access (Article 17).

The WPPJ further refers to a resolution of the Conference of the European Data Protection Authorities<sup>2</sup> calling upon the Council and the Commission to incorporate the provision of data protection advice within the structure of the Council of the European Union. The proposal presents the ideal opportunity to finally develop such an advisory role for the Data Protection Authorities.

Therefore, data protection principles should be adequately taken into account within the framework of fair co-operation also at EU level, in particular when attempting to develop and bring about a harmonised set of legal rules that are expected to regulate these matters for several years.

The WPPJ calls for the Ministers convened in the JHA Council to adequately take into account the comments made by data protection authorities.

In this connection, the WPPJ reiterates its willingness to provide additional, more specific suggestions and calls upon data protection authorities to take such steps as may be useful with regard to the respective competent national authorities.

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<sup>1</sup> Opinion of the Conference on 24 January, 2006, Budapest Declaration on 25 April 2006, London Declaration on 2 November 2006 and the Cyprus Declaration on 11 May 2007.

<sup>2</sup> Resolution Wroclaw 14 September 2004.