



EUROPEAN PARLIAMENT

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Committee on Legal Affairs

23.4.2012

NOTICE TO MEMBERS

(0043/2012)

Subject: Reasoned opinion by the Riksdag of the Kingdom of Sweden on the proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data
(COM(2012)0010 – C7-0024/2012 – 2012/0010(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the Riksdag of the Kingdom of Sweden on the above-mentioned proposal.

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Reasoned opinion issued by the Riksdag of the Kingdom of Sweden

In its proposal for a legislative act, the Commission refers to a number of problems associated with the implementation and enforcement of Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters. The Commission believes that the limited scope of application of the Framework Decision may create problems for competent authorities in the Member States and that the Framework Decision leaves the Member States considerable room for manoeuvre in implementing its provisions. According to the Commission, these problems justify extending the scope of the proposed Directive beyond the Framework Decision to also cover the national processing of personal data carried out by the Member States' competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

The above-mentioned Framework Decision should have been implemented by the Member States by 27 November 2010 at the latest. The Riksdag considers that it is too early to draw conclusions about the effectiveness of the Framework Decision. The Commission has, furthermore, not presented any independent impact assessment of the proposal for a Directive, this only being mentioned in the impact assessment for the reform package as a whole.

In short, the Riksdag considers that it is difficult to see what justifies extending the scope of the EU rules on the protection of personal data in the field of law enforcement. There is also the risk that extending legislation at EU level to cover the processing of personal data in the context of investigations and criminal proceedings may conflict with Member States' national criminal and procedural laws.

In this context, the Riksdag considers that the Commission's proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM(2012) 0010) does not comply with the subsidiarity principle as regards the sections regulating the purely national processing of personal data carried out by competent authorities in the Member States for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.