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*Committee on Civil Liberties, Justice and Home Affairs*

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PE 372.160v01-00

## AMENDMENTS 62-101

### Draft report

(PE 370.250v01-00)

**Martine Roure**

Proposal for a Council framework decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters  
(COM(2005)0475 – C6-0436/2005 – 2005/0202(CNS))

Proposal for a regulation (COM(2005)0475 – C6-0436/2005 – 2005/0202(CNS))

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Text proposed by the Commission

Amendments by Parliament

Amendment by Martine Roure

Amendment 62

Citation 1

Having regard to the Treaty on European Union, and in particular *Article 30, Article 31* and Article 34 (2)(b) thereof,

Having regard to the Treaty on European Union, and in particular *Article 30(1)(b), Article 31(1)(c)* and Article 34 (2)(b) thereof,

Or. fr

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EN

EN

Amendment by Alexander Nuno Alvaro

Amendment 63

Citation 1

Having regard to the Treaty on European Union, and in particular **Article 30, Article 31 and Article 34 (2)(b)** thereof,

Having regard to the Treaty on European Union, and in particular **Article 29, Article 30(1)(b) and Article 31(1)(c)** thereof,

Or. en

Amendment by Magda Kósáné Kovács

Amendment 64

Recital 9

(9) Ensuring a high level of protection of the personal data of **European citizens** requires common provisions to determine the lawfulness and the quality of data processed by competent authorities in other Member States.

(9) Ensuring a high level of protection of the personal data of **all persons within the territory of the European Union** requires common provisions to determine the lawfulness and the quality of data processed by competent authorities in other Member States.

Or. hu

*Justification*

*The European Union should afford the same protection not only to European citizens but to citizens of any other country.*

Amendment by Stavros Lambrinidis

Amendment 65

Recital 9

(9) Ensuring a high level of protection of the personal data of European citizens requires common provisions to determine the lawfulness and the quality of data processed by competent authorities in other Member States.

(9) Ensuring a high level of protection of the personal data of European citizens requires common provisions to determine the lawfulness and the quality of data **accessed, utilized, processed or exchanged** by competent authorities in other Member States.

Or. en

Amendment by Stavros Lambrinidis

Amendment 66

Recital 15

(15) It is appropriate to establish common rules on the confidentiality and security of the processing, on liability and sanctions for unlawful use by competent authorities as well as judicial remedies available for the data subject. Furthermore, it is necessary that Member States provide for criminal sanctions for particularly serious and ***intentionally committed*** infringements of data protection provisions.

(15) It is appropriate to establish common rules on the confidentiality and security of the processing, on liability and sanctions for unlawful use by competent authorities as well as judicial remedies available for the data subject. Furthermore, it is necessary that Member States provide for criminal sanctions for particularly serious and ***intentional or grossly negligent*** infringements of data protection provisions.

Or. en

Amendment by Alexander Nuno Alvaro

Amendment 67

Recital 20

(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.

(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. ***However, at the latest 4 years after the date referred to in Article 35(1), the specific data protection provisions applicable to Europol, Eurojust and Custom Information System should be made fully consistent with the present Framework Decision, with a view to enhancing consistency and effectiveness of the legal framework on data protection, pursuant to a proposal by the Commission.***

Or. en

Amendment by Martine Roure

Amendment 68  
Recital 20

(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.

(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. ***However, in the long term the principles of data protection applicable to Europol, Eurojust and the Customs Information System must be compatible with this framework decision in order to improve the consistency and effectiveness of the legal framework relating to data protection.***

Or. fr

Amendment by Martine Roure

Amendment 69  
Recital 20 a (new)

***(20a) Europol, Eurojust and the Customs Information System should retain those of their data protection rules which clearly provide that personal data may be processed, consulted or transmitted only on the basis of more specific conditions or restrictions.***

Or. fr

Amendment by Kathalijne Maria Buitenweg

Amendment 70  
Article 1, paragraph 2

***2. Member States shall ensure that the disclosure of personal data to the***

***deleted***

***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.***

Or. en

*Justification*

*The object of the Framework Decision must be limited to Art. 1 paragraph 1 of the draft Framework Decision.*

Amendment by Stavros Lambrinidis

Amendment 71  
Article 2, point (b)

(b) 'processing of personal data' ('processing') shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

(b) 'processing of personal data' ('processing') shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, ***accessing***, retrieval, consultation, use, disclosure by transmission, ***exchange***, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

Or. en

Amendment by Alexander Nuno Alvaro, Sarah Ludford

Amendment 72  
Article 2, point (j)

(j) 'competent authorities' shall mean police forces, customs, judicial and other competent authorities of the Member States within the meaning of Article 29 of the Treaty on European Union.

(j) 'competent authorities' shall mean police forces, customs, judicial and other competent authorities of the Member States within the meaning of Article 29 of the Treaty on European Union, ***as well as the Member States' intelligence services.***

Or. en

Amendment by Alexander Nuno Alvaro

Amendment 73  
Article 3, paragraph 2

2. This Framework Decision shall not 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.

2. This Framework Decision shall not, **for the time being**, 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.

***However, at the latest 4 years after the date referred to in Article 35(1), the specific data protection provisions applicable to Europol, Eurojust and Custom Information System shall be made fully consistent with the present Framework Decision, with a view to enhancing consistency and effectiveness of the legal framework on data protection, pursuant to a proposal by the Commission.***

en

Amendment by Stavros Lambrinidis

Amendment 74  
Article 4, paragraph 1 a (new)

***Article 4a***

***Further processing of personal data***

***1. Member States shall provide that personal data may be further processed only in accordance with this Framework Decision, in particular Articles 4, 5 and 6 hereof,***

***(a) for the specific purpose for which they were transmitted or made available,***

*(b) if strictly necessary, for the purpose of the prevention, investigation, detection or prosecution of specific serious criminal offences, or*

*(c) 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.*

Or. en

*Justification*

*"Serious" criminal offences in order to be consistent with data retention directive.*

Amendment by Kathalijne Maria Buitenweg

Amendment 75  
Article 6, paragraph 2

*2. Paragraph 1 shall not apply where* *deleted*

*- processing is provided for by a law and absolutely necessary for the fulfilment of the legitimate task of the authority concerned for the purpose of the prevention, investigation, detection or prosecution of criminal offences or if the data subject has given his or her explicit consent to the processing, and*

*-Member States provide for suitable specific safeguards, for example access to the data concerned only for personnel that are responsible for the fulfilment of the legitimate task that justifies the processing.*

Or. en

*Justification*

*No exception to the general rule of Article 6.1. can be accepted. There is no need to reconsider the traditional position of the EP in this connection.*

Amendment by Stavros Lambrinidis

Amendment 76  
Article 6, paragraph 2, indent 1

– processing is provided for by a law and absolutely necessary for the fulfilment of the legitimate task of the authority concerned for the purpose of the prevention, investigation, detection or prosecution of criminal offences or if the data subject has given his or her explicit consent to the processing, and

– processing is provided for by a law and *is* absolutely necessary ***and the only available means*** for the fulfilment of the legitimate task of the authority concerned for the purpose of the prevention, investigation, detection or prosecution of criminal offences or if the data subject has given his or her explicit consent to the processing, and

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 77  
Chapter III, Section I, Title

Transmission of and making available personal data ***to the competent authorities of other Member States***

Transmission of and making available personal data

Or. de

*Justification*

*See amendments to Articles 8a, 8b and 8c, which should apply to all data and not only when they have been transmitted or made available by the competent authorities of another Member State. As a result of this amendment this section applies to the processing of all data, including processing within a State.*

Amendment by Sylvia-Yvonne Kaufmann

Amendment 78  
Artikel 8 a (new)

***Article 8a***

***Transmission to authorities other than competent authorities***



***Member States shall provide that personal data are transmitted to authorities, other than competent authorities, of a Member State only in particular individual and well-documented cases and if all of the following requirements are met:***

***(a) the transmission is provided for by law clearly obliging or authorising it and***

***(b) the transmission is***

***necessary for the specific purpose for which the data concerned were collected, transmitted or made available or 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***

***or***

***necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfil its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is not incompatible with the original processing, and the legal obligations of the competent authority which intends to transmit the data are not contrary to this,***

***or***

***undoubtedly in the interest of the data subject and either the data subject has consented or circumstances are such as to allow a clear presumption of such consent.***

Or. de

### *Justification*

*This amendment corresponds to Article 13 together with the rapporteur's amendments to Article 13, introductory part and subparagraph (b)(1). See the rapporteur's justifications. Since this article, as amended by the rapporteur, is intended to apply to all police and judicial data, including those which have not been transmitted or made available by the competent authorities of another Member State, it is more appropriate to move it to the first section of Chapter III. See also the amendment to the title of the first section of Chapter III.*

Amendment by Sylvia-Yvonne Kaufmann

Amendment 79  
Artikel 8 b (new)

### *Article 8b*

#### *Transmission to private parties*

***Member States shall, without prejudice to national criminal procedural rules, provide that personal data can be transmitted to private parties in a Member State only in particular cases and if all of the following requirements are met:***

***(a) the transmission is provided for by law clearly obliging or authorising it, and***

***(b) the transmission is necessary for the purpose the data concerned were collected, transmitted or made available for or 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.***

Or. de

### *Justification*

*This amendment corresponds to Article 14 together with the rapporteur's amendment to Article 14. See the rapporteur's justification. Since this article, as amended by the rapporteur, is intended to apply to all police and judicial data, including those which have not been transmitted or made available by the competent authorities of another Member State, it is more appropriate*

*to move it to the first section of Chapter III. See also the amendment to the title of the first section of Chapter III.*

Amendment by Sylvia-Yvonne Kaufmann

Amendment 80  
Artikel 8 c (new)

**Article 8c**

***Transfer to competent authorities in third countries or to international bodies***

***1. Member States shall provide that personal data are not 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:***

***(a) The transfer is provided for by law clearly obliging or authorising it.***

***(b) The transfer is necessary for the purpose for which the data concerned were collected, transmitted or made available or 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.***

***(c) An adequate level of data protection is ensured in the third country or by the international body to which the data concerned are to be transferred.***

***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 put in place by the recipient of the transfer.*

*3. The Member States and the Commission shall inform each other and the European Parliament of cases where they consider that a third country or an international body does not ensure an adequate level of protection within the meaning of paragraph 2.*

*4. Where the Commission, following the consultation of the Council and the European Parliament, establishes that a third country or international body does not ensure an adequate level of protection within the meaning of paragraph 2, Member States shall take the measures necessary to prevent any transfer of personal data to the third country or international body in question.*

*5. The Commission, following the consultation of the Council and the European Parliament, may establish that a third country or international body ensures an adequate level of protection within the meaning of paragraph 2, by reason of its domestic law and of the international commitments it has entered into, for the protection of the private lives and basic freedoms and rights of individuals.*

Or. de

#### *Justification*

*This amendment corresponds to Article 15 together with the rapporteur's amendments to Article 15(1), 15(1)(b), 15(3) and 15(5). See the rapporteur's justifications. Since this article, as amended by the rapporteur, is intended to apply to all police and judicial data, including those which have not been transmitted or made available by the competent authorities of another*

*Member State, it is more appropriate to move it to the first section of Chapter III. See also the amendment to the title of the first section of Chapter III.*

*Article 15(6) is not incorporated here, as the transmission of personal data to competent authorities in third countries or to international bodies which cannot show that they protect data appropriately is not acceptable and therefore should not be allowed even in exceptional cases.*

Amendment by Stavros Lambrinidis,

Amendment 81

Article 11, paragraph 1, point (b)

(b) if 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.

(b) if 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 ***in accordance with the evaluation, to be carried out on a case-by-case basis, of an independent legal or administrative authority as provided for by national law.***

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 82

Article 12 a (new)

***Article 12a***

***Where personal data have been received from or made available by the competent authority of another Member State, these data may be further transmitted only in particular individual and well-documented cases and subject to the preconditions laid down in Article 8a, and may be transmitted to any party other than competent authorities only if the Member State that has transmitted or made available the data concerned to the competent authority that intends to further transfer them has given***

***its prior consent to their further transmission.***

Or. de

*Justification*

*Essentially the same as the rapporteur's amendment to Article 13(c). See the rapporteur's justification.*

Amendment by Sylvia-Yvonne Kaufmann

Amendment 83  
Article 12 b (new)

***Article 12b***

***Where personal data have been received from or made available by the competent authority of another Member State, these data may be further transmitted only in particular cases and subject to the preconditions laid down in Article 8b, and to private parties only if the Member State that has transmitted or made available the data concerned to the competent authority that intends to further transfer them has given its prior consent to their further transmission.***

Or. de

*Justification*

*Essentially the same as the rapporteur's amendment to Article 14, last part. See the rapporteur's justification.*

Amendment by Sylvia-Yvonne Kaufmann

Amendment 84  
Article 12 c (new)

**Article 12c**

***Where personal data have been received from or made available by the competent authority of another Member State, these data may not be further transmitted to competent authorities of third countries or international bodies unless the preconditions laid down in Article 8c are fulfilled and the Member State that has transmitted or made available the data concerned to the competent authority that intends to further transfer them has given its prior consent to their further transmission.***

Or. de

*Justification*

*Essentially the same as the rapporteur's amendment to Article 15(1)(1) a (new). See the rapporteur's justification.*

Amendment by Kathalijne Maria Buitenweg

Amendment 85  
Article 13

**Article 13**

**deleted**

***Transmission to authorities other than competent authorities***

***Member States shall provide that personal data received from or made available by the competent authority of another Member State are further transmitted to authorities, other than competent authorities, of a Member State only in particular cases and if all of the following requirements are met:***

***(a) the transmission is provided for by law clearly obliging or authorising it and***

*(b) the transmission is*

*necessary for the specific purpose the data concerned were transmitted or made available for or 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,*

*or*

*necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfil its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is not incompatible with the original processing, and the legal obligations of the competent authority which intends to transmit the data are not contrary to this,*

*or*

*undoubtedly in the interest of the data subject and either the data subject has consented or circumstances are such as to allow a clear presumption of such consent.*

*(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.*

Or. en

#### *Justification*

*There is a justification to authorize the transmission of personal data to other **competent** authorities (see Art. 12) but the draft framework decision does not provide any justification as to the necessity of transmitting personal data to authorities "other than competent authorities".*



*Article 13*

*deleted*

***Transmission to authorities other than competent authorities***

***Member States shall provide that personal data received from or made available by the competent authority of another Member State are further transmitted to authorities, other than competent authorities, of a Member State only in particular cases and if all of the following requirements are met:***

***(a) the transmission is provided for by law clearly obliging or authorising it and***

***(b) the transmission is***

***necessary for the specific purpose the data concerned were transmitted or made available for or 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,***

***or***

***necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfil its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is not incompatible with the original processing, and the legal obligations of the competent authority which intends to transmit the data are not contrary to this,***

***or***

***undoubtedly in the interest of the data***

*subject and either the data subject has consented or circumstances are such as to allow a clear presumption of such consent.*

*(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.*

Or. de

*Justification*

*See amendments to Articles 8a and 12a.*

Amendment by Stavros Lambrinidis

Amendment 87

Article 13, point (b), alternatives 2 and 3

necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfil its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is ***not incompatible with*** the original processing, and the legal obligations of the competent authority which intends to transmit the data are not contrary to this,

or

undoubtedly in the interest of the data subject and ***either*** the data subject has consented ***or circumstances are such as to allow a clear presumption of such consent.***

necessary because the data concerned are indispensable to the authority to which the data shall be further transmitted to enable it to fulfil its own lawful task and provided that the aim of the collection or processing to be carried out by that authority is ***the same as for*** the original processing, and the legal obligations of the competent authority which intends to transmit the data are not contrary to this,

or

undoubtedly in the interest of the data subject and the data subject has consented.

Or. en

*Article 14*

*deleted*

*Transmission to private parties*

*Member States shall, without prejudice to national criminal procedural rules, provide that personal data received from or made available by the competent authority of another Member State can be further transmitted to private parties in a Member State only in particular cases and if all of the following requirements are met:*

*(a) the transmission is provided for by law clearly obliging or authorising it, and*

*(b) the transmission is necessary for the purpose the data concerned were transmitted or made available for or 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, 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. de

*Justification*

*See amendments to Articles 8b and 12b.*

**Article 14**

**deleted**

***Transmission to private parties***

***Member States shall, without prejudice to national criminal procedural rules, provide that personal data received from or made available by the competent authority of another Member State can be further transmitted to private parties in a Member State only in particular cases and if all of the following requirements are met:***

***(a) the transmission is provided for by law clearly obliging or authorising it, and***

***(b) the transmission is necessary for the purpose the data concerned were transmitted or made available for or 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, 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. en

*Justification*

*There is a justification to authorize the transmission of personal data to other **competent** authorities (see Art. 12) but the draft framework decision does not provide any justification as to the necessity of transmitting personal data to "private paryies".*

*Article 15*

*deleted*

*Transfer to competent authorities in third countries or to international bodies*

*1. Member States shall provide that 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.*

*(a) The transfer is provided for by law clearly obliging or authorising it*

*(b) The transfer is necessary for the purpose the data concerned were transmitted or made available for or 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.*

*(c) The competent authority of another Member State that has transmitted or made available the data concerned to the competent authority that intends to further transfer them has given its prior consent to their further transfer.*

*(d) An adequate level of data protection is ensured in the third country or by the international body to which the data concerned shall be transferred.*

*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 put in place by the recipient of the transfer.*

*3. The Member States and the Commission shall inform each other of cases where they consider that a third country or an international body does not ensure an adequate level of protection within the meaning of paragraph 2.*

*4. Where, under the procedure provided for in Article 16, it is established that a third country or international body does not ensure an adequate level of protection within the meaning of paragraph 2, Member States shall take the measures necessary to prevent any transfer of personal data to the third country or international body in question.*

*5. In accordance with the procedure referred to in Article 16, it may be established that a third country or international body ensures an adequate level of protection within the meaning of paragraph 2, by reason of its domestic law or of the international commitments it has entered into, for the protection of the private lives and basic freedoms and rights of individuals.*

*6. Exceptionally, personal data received from the competent authority of another Member State may be further transferred to competent authorities of third countries or*

*to international bodies in or by which an adequate level of data protection is not ensured if absolutely necessary in order to safeguard the essential interests of a Member State or for the prevention of imminent serious danger threatening public security or a specific person or persons.*

Or. de

*Justification*

*See amendments to Articles 8c and 12c.*

Amendment by Stavros Lambrinidis

Amendment 91

Article 15, paragraph 1, point d)

(d) An **adequate** level of data protection is ensured in the third country or by the international body to which the data concerned shall be transferred.

(d) An **equivalent** level of data protection is ensured in the third country or by the international body to which the data concerned shall be transferred.

Or. en

Amendment by Stavros Lambrinidis

Amendment 92

Article 15, paragraph 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

Member States shall ensure that the **equivalency** 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 put in place by the recipient of the transfer.

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 put in place by the recipient of the transfer ***and the existence of severe and dissuasive administrative and criminal penalties in the event of a violation.***

Or. en

#### Amendment by Stavros Lambrinidis

##### Amendment 93 Article 15, paragraph 6

Exceptionally, personal data received from the competent authority of another Member State may be further transferred to competent authorities of third countries or to international bodies in or by which an adequate level of data protection is not ensured if absolutely necessary in order to safeguard the essential interests of a Member State or for the prevention of imminent serious danger threatening public security or a specific person or persons.

Exceptionally, personal data received from the competent authority of another Member State may be further transferred to competent authorities of third countries or to international bodies in or by which an adequate level of data protection is not ensured if absolutely necessary in order to safeguard the essential interests of a Member State or for the prevention of imminent serious danger threatening public security or a specific person or persons ***in accordance with criteria defined by law. The competent Supervisory Authority, the Commission and the European Parliament shall be notified of any such transfer.***

Or. en

#### Amendment by Camiel Eurlings

##### Amendment 94 Article 15, paragraph 5

***5. In accordance with the procedure referred to in Article 16, it may be established*** that a third country or international body ensures an adequate level of protection within the meaning of paragraph 2, by reason of its domestic law or

***5. After consulting the Council and informing the European Parliament, the Commission may establish*** that a third country or international body ensures an adequate level of protection within the meaning of paragraph 2, by reason of its



of the international commitments it has entered into, for the protection of the private lives and basic freedoms and rights of individuals.

domestic law or of the international commitments it has entered into, for the protection of the private lives and basic freedoms and rights of individuals.

Or. nl

*Justification*

*The European Parliament must be informed when the level of protection of data ensured by third countries is assessed.*

Amendment by Stavros Lambrinidis

Amendment 95

Article 24, paragraph 1, subparagraph 2

*Having regard to the state of the art and the cost of their implementation, such measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected. Measures shall be deemed necessary where the effort they involve is not disproportionate to the objective they are designed to achieve in terms of protection.*

*deleted*

Or. en

Amendment by Stavros Lambrinidis

Amendment 96

Article 25, paragraph 1, point b)

(b) the purpose or purposes of *the* processing;

(b) the purpose or purposes of *access or* processing;

Or. en

Amendment by Stavros Lambrinidis

Amendment 97  
Article 29, paragraph 2

2. Member States shall provide for effective, proportionate and dissuasive criminal sanctions for ***intentionally committed*** offences implying serious infringements of provisions adopted pursuant to this Framework Decision, notably provisions aimed at ensuring confidentiality and security of processing.

2. Member States shall provide for effective, proportionate and dissuasive criminal sanctions for offences ***committed intentionally or through gross negligence*** implying serious infringements of provisions adopted pursuant to this Framework Decision, notably provisions aimed at ensuring confidentiality and security of processing.

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 98  
Artikel 34 a (new)

***Article 34a***

***Relation to Europol, Eurojust and the Customs Information System***

***Not later than one year from the date referred to in Article 35(1), the Commission shall submit proposals with a view to making the rules on data protection applicable to Europol, Eurojust and the Customs Information System fully consistent with the present Framework Decision.***

Or. de

*Justification*

*See the rapporteur's justification for the amendment to Article 34a. As the data concerned are extremely sensitive, more rapid approximation of the data protection principles applicable under this framework decision with those of Europol, Eurojust and the Customs Information System is necessary.*

Amendment by Martine Roure

Amendment 99  
Article 34 a (new)

***Article 34a***

***Relation to Europol, Eurojust and the  
Customs Information System***

***Not later than two years from the date referred to in Article 35(1), the Commission shall submit proposals with a view to making the rules on data protection applicable to Europol, Eurojust and the Customs Information System fully consistent with the present Framework Decision.***

Or. fr

Amendment by Alexander Nuno Alvaro

Amendment 100  
Article 34 a (new)

***Article 34 a***

***Not later than two years from the date referred to in Article 35(1), the Commission shall, pursuant to Article 29, 30(1)(b) and Article 31(1)(c) of the Treaty on European Union, submit proposals with a view to making the specific data protection provisions applicable to Europol, Eurojust and the Customs Information System fully consistent with the present Framework Decision.***

Or. en

Amendment by Martine Roure

Amendment 101  
Article 34 b (new)

*Article 34 b*

*Europol, Eurojust and the Customs Information System shall retain those of their data protection rules which clearly provide that personal data may be processed, consulted or transmitted only on the basis of more specific conditions or restrictions.*

Or. fr