

Thursday 7 June 2007

P6\_TA(2007)0228

## **Prüm Treaty: cross-border cooperation in combating terrorism and cross-border crime \***

**European Parliament legislative resolution of 7 June 2007 on the initiative by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Italian Republic, the Republic of Finland, the Portuguese Republic, Romania and the Kingdom of Sweden on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (6566/2007 — C6-0079/2007 — 2007/0804(CNS))**

(Consultation procedure)

*The European Parliament,*

- having regard to the initiative by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Italian Republic, the Republic of Finland, the Portuguese Republic, Romania and the Kingdom of Sweden (6566/2007) <sup>(1)</sup>,
  - having regard to the Council's drafting amendments (7273/1/2007 of 17 April 2007) <sup>(1)</sup>,
  - having regard to Article 34(2)(c) of the EU Treaty,
  - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0079/2007),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 93, 51 and 35 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0207/2007),
1. Approves the initiative by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Italian Republic, the Republic of Finland, the Portuguese Republic, Romania and the Kingdom of Sweden as amended;
  2. Calls on the Council to amend the text accordingly;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Calls on the Council to consult Parliament if it intends to amend the initiative by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Italian Republic, the Republic of Finland, the Portuguese Republic, Romania and the Kingdom of Sweden substantially;

<sup>(1)</sup> Not yet published in OJ.

Thursday 7 June 2007

5. Regrets the obligation imposed on Parliament by the Council to express its opinion as a matter of urgency, without adequate and appropriate time for Parliamentary review and the absence both of a comprehensive impact assessment and an evaluation of the application of the Prüm Treaty to date, and of an adequate framework decision for the protection of personal data in police and judicial cooperation, which it considers necessary before any legislation is adopted under the third pillar;

6. Instructs its President to forward its position to the Council and the Commission, and the governments of the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Slovenia, the Slovak Republic, the Italian Republic, the Republic of Finland, the Portuguese Republic, Romania and the Kingdom of Sweden.

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

#### Amendment 1

##### Title

COUNCIL DECISION 2007/.../JHA of ... on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

COUNCIL **FRAMEWORK** DECISION 2007/.../JHA of ... on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

*(This amendment applies throughout the text.)*

#### Amendment 2

##### Citation 1

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (b), Article 31(1)(a), Article 32 and **Article 34(2)(c)** thereof,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (b), Article 31(1)(a), Article 32 and **Article 34(2)(b)** thereof,

#### Amendment 3

##### Citation 2a (new)

**Having regard to the opinion of the European Data Protection Supervisor of 4 April 2007,**

#### Amendment 4

##### Recital 1

(1) The Council of the European Union attaches fundamental importance to the **establishment of an** area of freedom, security and justice, which is **a** fundamental **concern of** the people of the **States brought together in the** Union.

(1) The Council of the European Union attaches fundamental importance to the area of freedom, security and justice, which is fundamental **to** the people of the **European** Union.

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 5

*Recital 10*

(10) These requirements are satisfied by the Prüm Treaty of 27 May 2005 between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration. In order **that** the substantive requirements of the Hague Programme **can be fulfilled** for all Member States **and that its targets in terms of time-scale can be achieved**, the **essential parts of** the Prüm Treaty **need** to be made applicable to all Member States. This Council Decision **should** therefore **be based on** the main provisions of the Prüm Treaty.

(10) These requirements are satisfied by the Prüm Treaty of 27 May 2005 between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration. In order **to fulfil** the substantive requirements of the Hague Programme for all Member States, the Prüm Treaty **needs** to be made applicable to all Member States. This Council **Framework** Decision therefore **includes some of** the main provisions of the Prüm Treaty, **namely those related to police and judicial cooperation in the European Union**.

Amendment 6

*Recital 11a (new)*

**(11a) These improvements in the exchange of data constitute a step forward in making the information available between law enforcement officers in the Member States. It is appropriate to ensure that there are reasons for automated searches in national DNA and fingerprint databases whenever personal data are concerned.**

Amendment 7

*Recital 15*

(15) Subject to certain conditions, Member States should be able to supply personal and non-personal data in order to improve the exchange of information in connection with major events with a cross-border dimension.

(15) Subject to certain conditions, Member States should be able to supply personal and non-personal data in order to improve the exchange of information in connection with major events with a cross-border dimension **and the purpose of which is to prevent terrorist offences. The supplying of the data should be necessary and proportionate and based on particular circumstances that give reason to believe that criminal offences will be committed.**

Amendment 8

*Recital 15a (new)*

**(15a) Within the framework of its mandate, Europol should also be granted access to national databases.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 9

Recital 16

(16) As international cooperation, particularly in combating cross-border crime, is to be further improved, this Decision, in addition to improving the exchange of information, should allow, amongst other things, closer cooperation between police authorities, for example by means of joint security operations (e.g. joint patrols) **and cross-border intervention in the event of immediate danger to life or limb.**

(16) As international cooperation, particularly in combating cross-border crime, is to be further improved, this **Framework** Decision, in addition to improving the exchange of information, should allow, amongst other things, closer cooperation between police authorities, for example by means of joint security operations (e.g. joint patrols).

Amendment 10

Recital 18

(18) **Aware of the importance which this Decision has for protecting the rights of individuals, and aware** that the supply of personal data to another Member State requires **a sufficient standard** of data protection on the part of the receiving Member State, **Member States should provide for efficient implementation of all data protection rules contained in the Decision.**

(18) **The hit/no hit system provides a structure for comparing anonymous profiles, where additional personal data are exchanged only after a hit, and guarantees an adequate system of data protection, it being understood** that the supply of personal data to another Member State requires **an adequate level** of data protection on the part of the receiving Member State.

Amendment 11

Recital 18a (new)

(18a) **Special categories of data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, party or trade union membership, sexual orientation or health should be processed only if absolutely necessary and proportionate for the purpose of a specific case and in compliance with specific safeguards.**

Amendment 12

Recital 18b (new)

(18b) **These specific rules on data protection are created in absence of an adequate third pillar legal instrument on data protection. When approved, that general legal instrument should be applied to the entire area of police and judicial cooperation in criminal matters provided always that its level of data protection is adequate and not lower than the protection laid down in the Council of Europe Convention for the Protection of Individuals with regard to automatic Processing of Personal Data of 28 January 1981 and its additional Protocol of 8 November 2001 and takes account of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers to Member States regulating the use of personal data in the police sector, also where data are not processed automatically.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 13  
*Recital 18c (new)*

**(18c) The European Parliament should be consulted on any measure implementing this Framework Decision.**

Amendment 14  
*Recital 18d (new)*

**(18d) It is necessary for the Council to adopt the Framework Decision on Procedural Rights as soon as possible in order to lay down certain minimum rules on the availability of legal assistance to individuals in the Member States.**

Amendment 15  
*Recital 18e (new)*

**(18e) With regard to the supply of information and assistance in connection with major events and mass gatherings, the overall framework must be reconciled with Joint Action 97/339/JHA of 26 May 1997 with regard to cooperation on law and order and security <sup>(1)</sup> and the Council Resolution of 29 April 2004 on security at the European Council meetings and other comparable events <sup>(2)</sup> and the Initiative of the Kingdom of the Netherlands with a view to the adoption of a Council Decision on strengthening cross-border police cooperation with regard to meetings attended by large numbers of people from more than one Member State, at which policing is primarily aimed at maintaining law and order and security and preventing and combating criminal offences <sup>(3)</sup>.**

<sup>(1)</sup> OJ L 147, 5.6.1997, p. 1.

<sup>(2)</sup> OJ C 116, 30.4.2004, p. 18.

<sup>(3)</sup> OJ C 101, 27.4.2005, p. 36.

Amendment 16  
*Recital 20*

(20) This Decision respects the fundamental rights and observes the principles *set out* in particular *in the* Charter of Fundamental Rights of the European Union,

(20) This **Framework** Decision respects the fundamental rights and observes the principles **recognised**, in particular, **by the** Charter of Fundamental Rights of the European Union. **In particular, this Framework Decision seeks to ensure full compliance with citizens' fundamental rights to respect for their private life and communications and to the protection of their personal data as enshrined in Articles 7 and 8 of the Charter.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 17  
*Recital 20a (new)*

**(20a) The full review and evaluation of the functioning of the Prüm Treaty to date and the establishment of a third pillar data protection framework decision are prerequisites for the effectiveness and correct implementation of this Framework Decision.**

Amendment 18  
*Article 1, paragraph 1, introductory part*

By means of this Decision, the Member States intend to step up cross border cooperation in matters covered by Title VI of the EU Treaty, particularly the exchange of information between agencies responsible for the prevention and investigation of criminal offences. To this end, this Decision contains rules in the following areas:

By means of this **Framework** Decision, the Member States intend to step up cross border cooperation in matters covered by Title VI of the EU Treaty, particularly the exchange of information between agencies responsible for the prevention and investigation of criminal offences **as listed in Article 2 of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States<sup>(1)</sup> as well as in Articles 1 to 4 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism<sup>(2)</sup> while ensuring an adequate level of data protection.** To this end, this **Framework** Decision contains rules in the following areas:

<sup>(1)</sup> OJ L 190, 18.7.2002, p. 1.  
<sup>(2)</sup> OJ L 164, 22.6.2002, p. 3.

Amendment 19  
*Article 1, point 4*

(4) Provisions on the conditions and procedure for stepping up border police cooperation through various measures (Chapter 5).

(4) Provisions on the conditions and procedure for stepping up border police cooperation through various **defined** measures (Chapter 5);

Amendment 20  
*Article 1, point 4a (new)*

**(4a) Provisions on data protection (Chapter 6, Article 14(2) and Article 16(2) and (4)).**

Amendment 21  
*Article 1a (new)*

**Article 1a**

**For the purposes of this Framework Decision:**

**(1) 'criminal offences' shall mean the offences listed in Article 2 of Council Framework Decision 2002/584/JHA;**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

- (2) *'terrorist offences'* shall mean the criminal offences listed in Articles 1 to 4 of Council Framework Decision 2002/475/JHA;
- (3) *'personal data'* shall mean any information relating to an identified or identifiable natural person ('data subject'); an 'identifiable person' means a person who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical or physiological identity;
- (4) *'processing of personal data'* shall mean any operation or set of operations which is performed upon personal data, whether or not by automated means, such as collection, recording, organisation, storage, adaptation or alteration, sorting, retrieval, consultation, use, disclosure by supply, dissemination or otherwise making available, alignment, combination, blocking, erasure or destruction of data; processing within the meaning of this Framework Decision shall also include notification of whether or not a hit exists;
- (5) *'automated search procedure'* shall mean direct access to the automated files of another body where the response to the search procedure does not require human intervention;
- (6) *'referencing of data'* shall mean the marking of stored personal data without the aim of limiting their processing in future;
- (7) *'blocking of data'* shall mean the marking of stored personal data with the aim of limiting their processing in future;
- (8) *'non-coding part of DNA'* shall mean chromosome zones containing no genetic expression, i.e. not known to provide information about specific hereditary characteristics; notwithstanding any scientific progress, no more information shall be revealed from the non-coding part of DNA either now nor in future.

Amendment 22

Article 1b (new)

#### Article 1b

Member States shall provide for a clear distinction to be made between the personal data of

- a person who is suspected of having committed or having taken part in a criminal offence,

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

- *a person who has been convicted of a criminal offence,*
- *a person with regard to whom there are serious grounds for believing that he or she will commit a criminal offence,*
- *a person who might be called on to testify in investigations in connection with criminal offences or subsequent criminal proceedings,*
- *a person who has been the victim of a criminal offence or with regard to whom certain facts give reasons for believing that he or she could be the victim of a criminal offence,*
- *a person who can provide information about criminal offences,*
- *a contact or associate of one of the persons listed above, and*
- *a person who does not fall within any of the categories referred to above.*

#### Amendment 23

##### Article 2, paragraph 1

1. Member States shall open and keep national DNA analysis files for the investigation of criminal offences. Processing of data **kept** in those files, under this Decision, shall be carried out in accordance with **this Decision**, in compliance with the national law applicable to the processing.

1. Member States shall open and keep national DNA analysis files for the investigation of criminal offences. Processing of **personal** data in those files, under this **Framework** Decision, shall be carried out in accordance with **the rules on data protection laid down in Chapter 6**, in compliance with the national law applicable to the processing.

#### Amendment 24

##### Article 2, paragraph 2

2. For the purpose of implementing this Decision, the Member States shall ensure **the availability of** reference data from their national DNA analysis files **as referred to in the first sentence of paragraph 1**. Reference data shall only include DNA profiles established from the non-coding part of DNA and a reference number. Reference data shall not contain any data from which the data subject can be directly identified. Reference data which is not attributed to any individual ('unidentified DNA-profiles') shall be recognisable as such.

2. For the purpose of implementing this **Framework** Decision, the Member States shall ensure **access to** reference data from their national DNA analysis files **opened for the investigation of criminal offences**. Reference data shall only include DNA profiles established from the non-coding part of DNA and a reference number. Reference data shall not contain any data from which the data subject can be directly identified. Reference data which is not attributed to any individual ('unidentified DNA-profiles') shall be recognisable as such.



Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 25

Article 3, paragraph 1

1. For the investigation of criminal offences, Member States shall allow other Member States' national contact points **as referred to in Article 6**, access to the reference data in their DNA analysis files, with the power to conduct automated searches by comparing DNA profiles. Searches may be conducted only in individual cases and in compliance with the requesting Member State's national law.

1. For the investigation of criminal offences, Member States shall allow other Member States' national contact points, access to the reference data in their DNA analysis files, with the power to conduct automated searches by comparing DNA profiles. Searches may be conducted only in individual cases and in compliance with **the rules on data protection laid down in Chapter 6 and** the requesting Member State's national law.

Amendment 26

Article 5

Should the procedures referred to in Articles 3 and 4 show a match between DNA profiles, the supply of **any available** further personal data and other information relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Member State.

Should the procedures referred to in Articles 3 and 4 show a match between DNA profiles, the supply of further personal data and other information relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Member State **and the rules on data protection laid down in Chapter 6**.

Amendment 27

Article 6

Article 6

**deleted**

**National contact point and implementing measures**

1. **For the purposes of the supply of data as referred to in Articles 3 and 4, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable national law.**

2. **Details of technical arrangements for the procedures set out in Articles 3 and 4 shall be laid down in the implementing measures as referred to in Article 34.**

Amendment 28

Article 7, paragraph 1, introductory wording

Where, in ongoing investigations or criminal proceedings, there is no DNA profile available for a particular individual present within a requested Member State's territory, the requested Member State shall provide legal assistance by collecting and examining cellular material from that individual and by supplying the DNA profile obtained, if:

1. Where, in ongoing investigations or criminal proceedings **relating to the commission of criminal offences**, there is no DNA profile available for a particular individual **who is suspected of having committed such a criminal offence and who is** present within a requested Member State's territory, the requested Member State shall provide legal assistance by collecting and examining cellular material from that individual and by supplying the DNA profile obtained, if:

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 29

Article 7, paragraph 1a (new)

**1a. The collection of cellular material shall take place only on the basis of national law and only for a specific purpose and shall meet the requirements of necessity and proportionality.**

Amendment 30

Article 8

For the purpose of implementing this Decision, Member States shall ensure **the availability of** reference data from the file for the national automated fingerprint identification systems established for the prevention and investigation of criminal offences. Reference data shall only include dactyloscopic data and a reference number. Reference data shall not contain any data from which the data subject can be directly identified. Reference data which is not attributed to any individual ('unidentified dactyloscopic data') must be recognisable as such.

For the purpose of implementing this **Framework** Decision, Member States shall ensure **access to** reference data from the file for the national automated fingerprint identification systems established for the prevention and investigation of criminal offences. Reference data shall only include dactyloscopic data and a reference number. Reference data shall not contain any data from which the data subject can be directly identified. Reference data which is not attributed to any individual ('unidentified dactyloscopic data') must be recognisable as such.

Amendment 31

Article 9, paragraph 1

1. For the prevention and investigation of criminal offences, Member States shall allow other Member States' national contact points, as referred to in Article 11, access to the reference data in the automated fingerprint identification systems which they have established for that purpose, with the power to conduct automated searches by comparing dactyloscopic data. Searches may be conducted only in individual cases and in compliance with the requesting Member State's national law.

1. For the prevention and investigation of criminal offences, Member States shall allow other Member States' national contact points, as referred to in Article 11, access to the reference data in the automated fingerprint identification systems which they have established for that purpose, with the power to conduct automated searches by comparing dactyloscopic data. Searches may be conducted only in individual cases and in compliance with **the rules on data protection laid down in Chapter 6 and** the requesting Member State's national law.

Amendment 32

Article 10

Should the procedure referred to in Article 9 show a match between dactyloscopic data, the supply of **any available** further personal data and other information relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Member State.

Should the procedure referred to in Article 9 show a match between dactyloscopic data, the supply of further personal data and other information relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Member State **and the rules on data protection laid down in Chapter 6.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 33

Article 11

Article 11

*deleted*

**National contact point and implementing measures**

1. For the purposes of the supply of data as referred to in Article 9, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable national law.

2. Details of technical arrangements for the procedure set out in Article 9 shall be laid down in the implementing measures as referred to in Article 34.

Amendment 34

Article 12, paragraph 1

1. For the prevention and investigation of criminal offences and in dealing with other offences coming within the jurisdiction of the courts or the public prosecution service in the searching Member State, **as well as in maintaining public order and security**, Member States shall allow other Member States' national contact points, as referred to in paragraph 2, access to the following national vehicle registration data, with the power to conduct automated searches in individual cases:

- (1) data relating to owners or operators, and
- (2) data relating to vehicles.

Searches may be conducted only with a full chassis number or a full registration number. Searches may be conducted only in compliance with the searching Member State's national law.

1. For the prevention and investigation of criminal offences and in dealing with other offences coming within the jurisdiction of the courts or the public prosecution service in the searching Member State, Member States shall allow other Member States' national contact points, as referred to in paragraph 2, access to the following national vehicle registration data, with the power to conduct automated searches in individual cases:

- (1) data relating to owners or operators, and
- (2) data relating to vehicles.

Searches may be conducted only with a full chassis number or a full registration number. Searches may be conducted only in compliance with **the rules on data protection laid down in Chapter 6 and** the searching Member State's national law.

Amendment 35

Article 12, paragraph 2

2. For the purposes of the supply of data as referred to in paragraph 1, each Member State shall designate a national contact point for incoming requests. The powers of the national contact points shall be governed by the applicable national law. Details of technical arrangements for the procedure shall be laid down in the implementing measures as referred to in Article 34.

*deleted*

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 36

Article 14, paragraph 1

1. For the prevention of criminal offences and in maintaining public order and security for major events with a cross-border dimension, in particular for sporting events or European Council meetings, Member States shall, both upon request and of their own accord, supply one another with personal data if any final convictions or other circumstances give reason to believe that the data subjects will commit criminal offences at the event or pose a threat to public order and security, in so far as the supply of such data is permitted under the supplying Member State's national law.

1. For the prevention of criminal offences and in maintaining public order and security for major events with a cross-border dimension, in particular for sporting events or European Council meetings, Member States shall, both upon request and of their own accord, supply one another with personal data if any final convictions or other circumstances give reason to believe that the data subjects will commit criminal offences at the event or pose a threat to public order and security, in so far as the supply of such data is permitted under the supplying Member State's national law **and when necessary and proportionate in a democratic society, for a specific purpose and on a case-by-case basis.**

Amendment 37

Article 15

Article 15

*deleted*

**National contact point**

**For the purposes of the supply of data as referred to in Articles 13 and 14, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable national law.**

Amendment 38

Article 16, paragraph 1

1. For the prevention of terrorist offences, Member States may, in compliance with national law, in individual cases, even without being requested to do so, supply other Member States' national contact points, **as referred to in paragraph 3**, with the personal data and information specified in paragraph 2, in so far as is necessary because particular circumstances give reason to believe that the data subjects will commit **criminal** offences **as referred to in Articles 1 to 3 of EU Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.**

1. For the prevention of terrorist offences, Member States may, in compliance with national law, **basic principles of law and fundamental rights**, in individual cases, even without being requested to do so, supply other Member States' national contact points with the personal data and information specified in paragraph 2, in so far as is necessary because particular circumstances give reason to believe that the data subjects will commit **terrorist** offences.

Amendment 39

Article 16, paragraph 2

2. The data to be supplied shall comprise **surname, first names, date and place of birth and** a description of the circumstances giving rise to the belief referred to in paragraph 1.

2. The data to be supplied shall comprise **only personal data and** a description of the circumstances giving rise to the belief referred to in paragraph 1.

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 40

Article 16, paragraph 3

3. *Each Member State shall designate a national contact point for exchange of information with other Member States' national contact points. The powers of the national contact points shall be governed by the applicable national law.* **deleted**

Amendment 41

Article 16, paragraph 4a (new)

**4a. Regardless of those conditions, personal data may be processed only for the purposes specified in paragraph 1. The data supplied shall be deleted without delay once the purposes specified in paragraph 1 have been achieved or can no longer be achieved, and in any event after no more than two years from the date of supply.**

Amendment 42

Article 17, paragraph 2

2. Each Member State may, as a host Member State, in compliance with its own national law, and with the seconding Member State's consent, confer executive powers on the seconding Member States' officers involved in joint operations **or, in so far as the host Member State's law permits, allow the seconding Member States' officers to exercise their executive powers in accordance with the seconding Member State's law.** Such executive powers may be exercised only under **the guidance** and, as a rule, in the presence of officers from the host Member State. **The seconding Member States' officers shall be subject to the host Member State's national law. The host Member State shall assume responsibility for their actions.**

**2. The seconding Member States' officers shall be subject to the host Member State's national law.** Each Member State may, as a host Member State, in compliance with its own national law, and with the seconding Member State's consent, confer executive powers on the seconding Member States' officers involved in joint operations. Such executive powers may be exercised only under **instructions from** and, as a **general** rule, in the presence of officers from the host Member State.

Amendment 43

Article 17a (new)

**Article 17a**

**Measures in the event of imminent danger**

**1. In urgent situations, officers from one Member State may, without the prior consent of another Member State ('the host Member State', cross the border between the two States so that, within an area of the host Member State's territory close to the border and in compliance with the host Member State's national law, they may take any provisional measures necessary to avert an imminent danger to the physical integrity of individuals.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

2. *An urgent situation as referred to in paragraph 1 shall be deemed to arise if there is a risk that the danger will materialise in the event of there being any delay before the host Member State's officers take responsibility as stipulated in Article 17(2).*

3. *The officers crossing the border shall immediately notify the host Member State of their presence. The host Member State shall confirm receipt of such notification and take the necessary measures without delay to avert the danger and take charge of the operations. The officers crossing the border may operate in the host Member State only until the host Member State has taken the necessary protective measures. The officers crossing the border shall be required to follow the host Member State's instructions.*

4. *The Member States shall specify in a separate agreement the authorities to be notified without delay, as stipulated in paragraph 3. The officers crossing the border shall be required to comply with the provisions of this Article and with the law of the host Member State.*

5. *The host Member State shall assume responsibility for the measures taken by the officers crossing the border.*

Amendment 44

Article 18a (new)

#### Article 18a

##### Cooperation upon request

1. *The competent authorities of the Member States shall provide one another with assistance, upon request, within the scope of their powers and in compliance with their own national law.*

2. *Those competent authorities shall provide one another with assistance, in accordance with the first sentence of Article 39(1) of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, in particular by:*

- (1) *identifying owners and operators of vehicles and providing information on drivers, masters and captains of vehicles, vessels and aircraft, in so far as not already provided for in Article 12;*
- (2) *supplying information on driving licences, navigation licences and similar permits;*

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

- (3) *ascertaining the whereabouts and place of residence of individuals;*
- (4) *checking residence permits;*
- (5) *ascertaining the identity of telephone subscribers and subscribers to other telecommunications services, where publicly accessible;*
- (6) *establishing the identity of individuals;*
- (7) *investigating the origin of items such as arms, motor vehicles and vessels (enquiries via trade channels);*
- (8) *supplying data from police databases and police records and supplying information from official records accessible to the public;*
- (9) *issuing urgent alerts concerning arms and explosives and alerts concerning currency counterfeiting and securities fraud;*
- (10) *supplying information on practical implementation of cross-border surveillance, cross-border hot pursuit and controlled deliveries, and*
- (11) *ascertaining an individual's willingness to make a statement.*

3. *If the authority to which the request is made does not have the power to deal with the request, it shall pass it on to an authority with the power to do so. The requested authority shall notify the requesting authority of the passing on of the request and of the authority empowered to deal with it. The latter authority shall deal with the request and send the requesting authority the result.*

Amendment 45

Article 19, paragraph 1

1. Officers from a seconding Member State **who are involved in a joint operation within another Member State's territory may wear their own national uniforms there.** They may carry **such arms**, ammunition and equipment as they are allowed to under the seconding Member State's national law. The host Member State may prohibit the carrying of **particular arms**, ammunition or equipment by a seconding Member State's officers.

1. Officers from a seconding Member State may carry **such service weapons**, ammunition and equipment as they are allowed to under the seconding Member State's national law. The host Member State may prohibit the carrying of **certain service weapons**, ammunition or equipment by a seconding Member State's officers **provided its own legislation applies the same prohibition to its own officers.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 46

Article 19, paragraph 2a (new)

*2a. Officers from a seconding Member State who are involved in a joint operation in another Member State's territory shall wear their own national uniforms. A common distinctive sign must be carried by all members of the joint operation. The host Member State must deliver an accreditation document to the seconding Member States' officers, including the name, rank and a digitised photograph of the officer.*

Amendment 47

Article 24, paragraph 1

1. For the purposes of this Chapter: *deleted*
- (1) *'processing of personal data' shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, sorting, retrieval, consultation, use, disclosure by supply, dissemination or otherwise making available, alignment, combination, blocking, erasure or destruction of data. Processing within the meaning of this Decision shall also include notification of whether or not a hit exists;*
- (2) *'automated search procedure' shall mean direct access to the automated files of another body where the response to the search procedure is fully automated;*
- (3) *'referencing' shall mean the marking of stored personal data without the aim of limiting their processing in future;*
- (4) *'blocking' shall mean the marking of stored personal data with the aim of limiting their processing in future.*

Amendment 48

Article 24, paragraph 2

2. *The following provisions shall apply to data which are or have been supplied pursuant to this Decision, save as otherwise provided in the preceding Chapters.*

2. *The following provisions shall apply to the collection and processing of DNA material and fingerprints in a Member State and to the supply of further personal data within the scope of this Framework Decision.*

*The following provisions shall also apply to data which are or have been supplied pursuant to this Framework Decision.*



Thursday 7 June 2007

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AMENDMENTS  
BY PARLIAMENT

Amendment 49

Article 25, paragraph 1a (new)

**1a. Member States shall take into account the various categories of personal data and the various purposes for which they are collected with a view to laying down time limits for their storage and appropriate conditions for their collection, further processing and transfer. Personal data relating to persons who are not suspected of having committed or taken part in a criminal offence may be processed only for the purpose for which they were collected and for a limited period. Member States shall lay down appropriate limitations on access to and transmission of such data.**

Amendment 50

Article 25, paragraph 3

**3. Paragraph 2 shall not apply to those Member States where the supply of personal data as provided for in this Decision has already started pursuant to the Treaty of 27 May 2005 between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, in particular in combating terrorism, cross-border crime and illegal migration ('Prüm Treaty').**

**deleted**

Amendment 51

Article 25, paragraph 3a (new)

**3a. Data processed under this Framework Decision shall not be transferred or made available to a third country or to any international organisation.**

Amendment 52

Article 26, paragraph 1

1. Processing of personal data by the receiving Member State shall be permitted solely for the purposes for which the data have been supplied in accordance with this Decision. Processing for other purposes shall be permitted solely with the prior authorisation of the Member State administering the file and subject only to the national law of the receiving Member State. Such authorisation may be granted provided that processing for such other purposes is permitted under the national law of the Member State administering the file.

1. Processing of personal data by the receiving Member State shall be permitted solely for the purposes for which the data have been supplied in accordance with this **Framework** Decision. Processing for other purposes shall be permitted solely with the prior authorisation of the Member State administering the file and subject only to the national law of the receiving Member State. Such authorisation may be granted provided that processing for such other purposes is permitted under the national law of the Member State administering the file **and on a case-by-case basis.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 53

Article 27

Personal data supplied may be processed only by the authorities, bodies and courts with responsibility for a task in furtherance of the aims mentioned in Article 26. In particular, data may be supplied to other entities only with the prior authorisation of the supplying Member State and in compliance with the law of the receiving Member State.

Personal data supplied may be processed only by the authorities, bodies and courts with responsibility for a task in furtherance of the aims mentioned in Article 26. In particular, data may be supplied to other entities only with the prior authorisation of the supplying Member State **on a case-by-case basis** and in compliance with the law of the receiving Member State.

Amendment 54

Article 28, paragraph 2a (new)

**2a. Special categories of data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, party or trade union membership, sexual orientation or health shall be processed only if absolutely necessary and proportionate for the purpose of a specific case and in compliance with specific safeguards.**

Amendment 55

Article 28, paragraph 3, point (2)

(2) following the expiry of the maximum period **for keeping data laid down in the national law of the supplying Member State where the supplying body informed the receiving body of those maximum periods at the time of supplying the data.**

(2) following the expiry of the maximum period **of two years, except in the cases laid down in Articles 14 and 16.**

Amendment 56

Article 29, paragraph 2, point (1)

(1) **state-of-the-art** technical measures are taken to ensure data protection and data security, in particular data confidentiality and integrity;

(1) **the best available** technical measures are taken to ensure data protection and data security, in particular data confidentiality and integrity;

Amendment 57

Article 30, paragraph 2, introductory wording

**2. The following shall apply to automated searches for data based on Articles 3, 9,12 and automated comparison pursuant to Article 4:**

**deleted**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 58

Article 30, paragraph 4

4. The recorded data shall be protected with suitable measures against inappropriate use and other forms of improper use and shall be kept for **two** years. After the conservation period the recorded data shall be deleted immediately.

4. The recorded data shall be protected with suitable measures against inappropriate use and other forms of improper use and shall be kept for **three** years. After the conservation period the recorded data shall be deleted immediately.

Amendment 59

Article 31, paragraph 1

1. **At the request of the data subject under national law, information shall be supplied in compliance with national law to the data subject upon production of proof of his identity, without unreasonable expense, in general comprehensible terms and without unacceptable delays, on the data processed in respect of his person, the origin of the data, the recipient or groups of recipients, the intended purpose of the processing and the legal basis for the processing.** Moreover, the data subject shall be entitled to have inaccurate data corrected and unlawfully processed data deleted. **The** Member States shall also ensure that, in the event of violation of his rights in relation to data protection, the data subject shall be able to lodge an effective complaint to an independent court or a tribunal within the meaning of Article 6(1) of the European Convention on Human Rights or an independent supervisory authority within the meaning of Article 28 of 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 and that he is given the possibility to claim for damages or to seek another form of legal compensation. The detailed rules for the procedure to assert these rights and the reasons for limiting the right of access shall be governed by the relevant national legal provisions of the Member State where the data subject asserts his rights.

1. **Information about data collected, data supplied to other Member States and authorisations concerning those data shall be dealt with in compliance with national law without unreasonable expense, in general comprehensible terms and without unacceptable delays. Moreover, the data subject shall be entitled to have inaccurate data corrected and unlawfully processed data deleted, of which the data subject shall also be informed.** Member States shall also ensure that, in the event of violation of his rights in relation to data protection, the data subject shall be able to lodge an effective complaint to an independent court or a tribunal within the meaning of Article 6(1) of the European Convention on Human Rights or an independent supervisory authority within the meaning of Article 28 of 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 and that he is given the possibility to claim for damages or to seek another form of legal compensation. The detailed rules for the procedure to assert these rights and the reasons for limiting the right of access shall be governed by the relevant national legal provisions of the Member State where the data subject asserts his rights.

Amendment 60

Article 32a (new)

**Article 32a**

**Member States shall adopt suitable measures to ensure the full implementation of the provisions of this Chapter and shall lay down effective, proportionate and dissuasive sanctions to be imposed in the event of infringement thereof, notably those provisions aimed at ensuring the confidentiality and security of personal data processing.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 61  
Article 32b (new)

**Article 32b**

1. *For the purpose of the supply of data as referred to in Articles 3, 4, 9, 12, 14 and 16, each Member State shall designate one or several national contact points.*
2. *The powers of the national contact points shall be governed by the applicable national law. National contact points shall be available at all times.*
3. *The list of all national contact points shall be sent by each Member State to the other Member States and shall be published in the Official Journal of the European Union.*

Amendment 62  
Article 33, paragraph 2

2. Declarations submitted in accordance with paragraph 1 may be amended at any time by means of a declaration submitted to the General Secretariat of the Council. The General Secretariat of the Council shall forward any declarations received to the Member States and the Commission.

2. Declarations submitted in accordance with paragraph 1 may be amended at any time by means of a declaration submitted to the General Secretariat of the Council. The General Secretariat of the Council shall forward any declarations received to the Member States, **the European Parliament** and the Commission.

Amendment 63  
Article 33, paragraph 2a (new)

**2a. Declarations, except for those referred to in Article 19(4), shall be published in the Official Journal of the European Union.**

Amendment 64  
Article 34

The Council shall adopt measures **necessary to implement this Decision at the level of the Union in accordance with the procedure laid down in the second sentence of Article 34(2)(c) of the EU Treaty.**

1. The Council shall adopt **implementing** measures **only after consulting the European Parliament.**

2. **The implementing measures shall also be communicated to the European Data Protection Supervisor, who may give his or her opinion thereon.**

Thursday 7 June 2007

TEXT PROPOSED BY THE KINGDOM OF BELGIUM, THE REPUBLIC OF BULGARIA, THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE ITALIAN REPUBLIC, THE REPUBLIC OF FINLAND, THE PORTUGUESE REPUBLIC, ROMANIA AND THE KINGDOM OF SWEDEN

AMENDMENTS  
BY PARLIAMENT

Amendment 65

Article 35

Each Member State shall bear the operational costs incurred by its own authorities in connection with the implementation of this Decision. ***In special cases, the Member States concerned may agree on different arrangements.***

Each Member State shall bear the operational costs incurred by its own authorities in connection with the implementation of this **Framework** Decision. ***However, the general budget of the European Union shall bear the costs relating to the functioning of TESTA II (Trans European Services for Telematics between Administrations) or any other network used to exchange the data referred to in Chapter 2 of this Framework Decision.***

Amendment 66

Article 36, paragraph 2

2. Member States may conclude or bring into force bilateral or multilateral agreements or arrangements which concern the scope of this Decision after it has entered into force in so far as such agreements or arrangements provide for the objectives of this Decision to be extended or enlarged.

2. Member States may conclude or bring into force bilateral or multilateral agreements or arrangements which concern the scope of this **Framework** Decision after it has entered into force in so far as such agreements or arrangements provide for the objectives of this **Framework** Decision to be extended or enlarged, ***including the data protection objectives of this Framework Decision.***

Amendment 67

Article 36, paragraph 4

4. Member States shall inform the Council and the Commission within [... years] of entry into force of this Decision of existing agreements or arrangements within the meaning of the first paragraph which they wish to continue to apply.

4. Member States shall inform ***the European Parliament***, the Council and the Commission within [... years] of entry into force of this **Framework** Decision of existing agreements or arrangements within the meaning of the first paragraph which they wish to continue to apply.

Amendment 68

Article 36, paragraph 5

5. Member States shall also inform the Council and the Commission of all new agreements or arrangements within the meaning of paragraph 2 within 3 months of their signing or, in the case of instruments which were signed before adoption of this Decision, within three months of their entry into force.

5. Member States shall also inform ***the European Parliament***, the Council and the Commission of all new agreements or arrangements within the meaning of paragraph 2 within 3 months of their signing or, in the case of instruments which were signed before adoption of this **Framework** Decision, within three months of their entry into force.

Amendment 69

Article 37, paragraph 2

2. Member States shall transmit to the General Secretariat of the Council ***and the Commission*** the text of the provisions transposing into their national law the obligations imposed on

2. Member States shall transmit to the General Secretariat of the Council the text of the provisions transposing into their national law the obligations imposed on them under this

Thursday 7 June 2007

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AMENDMENTS  
BY PARLIAMENT

them under this Decision. When doing so, each Member State may indicate that it will apply immediately this Decision in its relations with those Member States which have given the same notification.

**Framework** Decision. When doing so, each Member State may indicate that it will apply immediately this **Framework** Decision in its relations with those Member States which have given the same notification. **The General Secretariat of the Council shall forward the notifications received to the Member States, the European Parliament and the Commission.**

Amendment 70  
Article 37a (new)

#### Article 37a

1. **The Council shall carry out an evaluation of the administrative, technical and financial application and implementation of this Framework Decision every two years.**
2. **The modalities of the automated searching and comparison of DNA and dactyloscopic data shall be evaluated six months after the date on which this Framework Decision takes effect. For vehicle registration data, this first evaluation shall take place three months after that date.**
3. **Evaluation reports shall be transmitted to the European Parliament and the Commission.**

P6\_TA(2007)0229

### Consultation of the Visa Information System (VIS) \*

European Parliament legislative resolution of 7 June 2007 on the proposal for a Council decision concerning access for consultation of the Visa Information System (VIS) by the authorities of Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (COM(2005)0600 — C6-0053/2006 — 2005/0232(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2005)0600) <sup>(1)</sup>,
- having regard to Articles 30(1)(b) and 34(2)(c) of the EU Treaty,
- having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0053/2006),
- having regard to the Protocol integrating the Schengen acquis into the framework of the European Union, pursuant to which the Council consulted Parliament,

<sup>(1)</sup> Not yet published in OJ.