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([1]) Text with EEA relevance

(Continued overleaf)

EN

[1] Text with EEA relevance

I

(Information)

COUNCIL

COUNCIL DECISION

of 15 September 2006

appointing members and alternate members of the Advisory Committee on Freedom of Movement for Workers

(2006/C 242/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community [1], and in particular Articles 26 and 27 thereof,

Having regard to the lists of candidates submitted to the Council by the Governments of the Member States,

Whereas:

(1) the Council, by its Decision of 28 June 2004 [2], appointed the members and alternate members of the Advisory Committee on Freedom of Movement for Workers for the period from 7 May 2004 to 6 May 2006;

(2) the members shall remain in office until they are replaced or their appointments are renewed;

(3) members and alternate members of the said Committee should be appointed for a period of two years,

HAS DECIDED AS FOLLOWS:

Sole Article

The following are hereby appointed members and alternate members of the Advisory Committee on Freedom of Movement for Workers for the period from **14 September 2006 to 13 September 2008**:

I. **GOVERNMENT REPRESENTATIVES**

Country	Members	Alternates
Belgium	Ms Virginie LECLERCQ Ms Anne ZIMMERMANN	Ms Alix GEYSELS
Czech Republic	Mr Miloš TICHÝ Ms Martina MICHALCOVÁ	Ms Zuzana DI FALCO
Denmark	Mr Ole Bondo CHRISTENSEN Ms Louise de BRASS	Ms Lisbet MØLLER NIELSEN

[1] OJ L 257, 18.10.1968, p. 2.
[2] OJ C 12, 18.1.2005, p. 4.

Country	Members	Alternates
Germany	Mr Gisbert BRINKMANN Ms Maria Helene GROß	Ms Dagmar FELDGEN
Estonia	Ms Maarja KULDJÄRV Ms Katrin HÖÖVELSON	Ms Carita RAMMUS
Greece	Mr Andreas KARIDIS Mr Konstantinos CHRISINIS	Mr Georges NERANTZIS
Spain	Mr Carlos GUERVÓS MAÍLLO Mr Carlos LÓPEZ-MÓNIS DE CAVO	Mr Carlos GARCÍA DE CORTAZAR
France	Ms Nadia MAROT Mr François LEPAGE	Mr Christian LEFEUVRE
Ireland	Mr Brendan SHANAHAN Mr John KELLY	Ms Gerardine BUCKLEY
Italy	—	—
Cyprus	Mr Nelson NEOCLEUS Ms Myria ANDREOU	Mr Demetris MICHAELIDES
Latvia	Mr Jorens AIZSILS Ms Daiga FREIMANE	Ms Linda DIMANTE
Lithuania	Ms Rita KAZLAUSKIENĖ Ms Monika VYŠNIAUSKIENĖ	Mr Marius GREIČIUS
Luxembourg	Ms Mariette SCHOLTUS Mr Paolo FINZI	Ms Malou FABER
Hungary	Ms Vera ÁCS Ms Tímea Éva KISS	Ms Éva LUKÁCS GELLÉRNÉ
Malta	Mr Robert SUBAN Mr Joseph MIZZI	—
Netherlands	Mr J.J. VERBOOM Mr M.G. BLOMSMA	Ms G WIDERA-STEVENS
Austria	Ms Ingrid NOWOTNY Ms Doris WITEK-WEINDORFER	Mr Heinz KUTROWATZ
Poland	Mr Janusz GRZYB Mr Grzegorz PRAGERT	Ms Magdalena SWEKLEJ
Portugal	Ms Ana Cristina SANTOS PEDROSO Mr Adolfo LOURO ALVES	Mr Mário PEDRO
Slovenia	Ms Janja ROMIH Mr Radivoj RADAK	Ms Damjana ŠARČEVIČ
Slovakia	Mr Tomáš ŠEFRANKO Ms Agnesa SKUPNÍKOVÁ	Ms Zora BAROCHOVÁ
Finland	Mr Olli SORAINEN Ms Sinikka HYYPPÄ	Mr Tuomo KURRI
Sweden	Ms Anna SANTESSON —	Mr Claes-Göran LOCK
United Kingdom	Ms Anna HUDZIECZEK Mr Andrew MILTON	— [1]

[1] The United Kingdom has waived its right to an alternate member.

II. **WORKERS' REPRESENTATIVES**

Country	Members	Alternates
Belgium	Mr Jean-François MACOURS —	Ms Yvienne VAN HOLSBEECK
Czech Republic	Mr Miroslav FEBER Mr Jiří MANN	Mr Pavel JANÍČKO
Denmark	Mr Michael JACOBSEN Mr Jens WIENE	Ms Käthe MUNK RYOM
Germany	Mr Michael HOLDINGHAUSEN Ms Renate GABKE	Mr Christian MOOS
Estonia	Ms Liina CARR Mr Leif KALEV	Ms Tiia TAMMELEHT
Greece	Mr Georgios PERENTIS Mr Giorgos SKOULATAKIS	Mr Efthimios EFTHIMIOU
Spain	Ms Ana Maria CORRAL JUAN Mr Julio RUIZ	Ms Pilar ROC ALFARO
France	Mr Yves VEYRIER Ms An LENOUAIL-MARLIERE	Ms Laurence LAIGO
Ireland	Mr Brendan MACKIN Ms Rosheen CALLENDER	Ms Esther LYNCH
Italy	—	—
Cyprus	Mr Nicos GREGORIOU Mr Nicos EPISTITHIOU	Mr Diomedes DIOMEDOUS
Latvia	Ms Līvija MARCINKĒVIČA Mr Ojārs BRAŽA	Mr Kaspars RĀCENĀJS
Lithuania	Ms Janina ŠVEDIENĖ Ms Janina MATUIZIENĖ	Ms Jovita MEŠKAUSKIENĖ
Luxembourg	Mr Eduardo DIAS Ms Tania MATIAS	Mr Carlos PEREIRA
Hungary	Ms Judit IVÁNY CZUGLERNÉ Mr Károly GYÖRGY	Ms Edit PINK
Malta	—	—
Netherlands	Mr P. KOPPE Ms D. VAARTJES-VAN SUIJDAM	Mr P.F. VAN KRUINING
Austria	Mr Josef WALLNER Mr Oliver RÖPKE	Mr Johannes PEYRL
Poland	Mr Krzysztof ROSTKOWSKI Mr Bogdan OLSZEWSKI	Mr Jakub KUS
Portugal	Mr Carlos Manuel ALVES TRINDADE Mr José Manuel CORDEIRO	Mr Carlos Manuel DOS ANJOS ALVES
Slovenia	Ms Metka ROKSANDIĆ Mr Gregor CERAR	Mr Jaka POČIVAVŠEK
Slovakia	Ms Magdaléna MELLENOVÁ Mr Milan BUŠO	Ms Jana SLÁVIKOVÁ

Country	Members	Alternates
Finland	Mr Olli KOSKI Ms Salla HEINÄNEN	Mr Ralf SUND
Sweden	Ms Monika ARVIDSSON Ms Lena WIRKKALA	Mr Ossian WENNSTRÖM
United Kingdom	Mr Sean BAMFORD Ms Sofi TAYLOR	Mr Wilf SULLIVAN

III. **EMPLOYERS' REPRESENTATIVES**

Country	Members	Alternates
Belgium	Ms Sonja KOHNENMERGEN Mr Philippe STIENON	Mr Ivo VAN DAMME
Czech Republic	Ms Marie ZVOLSKÁ Mr Miroslav FIŘT	Ms Vladimira DRBALOVÁ
Denmark	Mr Henning GADE Mr Flemming DREESEN	Ms Dorthe ANDERSEN
Germany	Ms Angela SCHNEIDER-BODIEN Ms Susanne WITTKÄMPFER	Ms Alexandra HACKETHAL
Estonia	Ms Lilian SALLASTE Mr Heinart PUHKIM	Mr Tarmo KRIIS
Greece	Ms Rena BARDANI Mr Leonidas NIKOLOUZOS	Mr Antonis MEGOULIS
Spain	Mr Pablo GÓMEZ ALBO GARCÍA Mr Roberto SUÁREZ	Mr Javier IBARS ALVARO
France	Ms Odile MENNETEAU Mr Gaëtan BEZIER	Mr Jean-Louis TERDJMAN
Ireland	Ms Heidi LOUGHEED Ms Catherine MAGUIRE	Mr Arthur FORBES
Italy	—	—
Cyprus	Mr Stylianos CHRISTOFOROU Mr Emilios MICHAEL	Mr Lefteris KARYDIS
Latvia	Ms Daiga ERMSONE Ms Marina PAŅKOVA	Mr Eduards FILIPPOVS
Lithuania	Mr Jokūbas BERŽINSKAS Mr Mingirdas ŠAPRANAUSKAS	Mr Iginijus ŠAKŪNAS
Luxembourg	Mr Marc KIEFFER Mr François ENGELS	Mr Romain LANNERS
Hungary	Mr Pál KARA Mr István KOMORÓCZKI	Mr Attila SZABADKAI
Malta	—	—
Netherlands	Mr A. VAN DELFT Mr S.J.L. NIEUWSMA	Mr G.A.M. VAN DER GRIND
Austria	Ms Margit KREUZHUBER Mr Wolfgang TRITREMMEL	Ms Christa SCHWENG

Country	Members	Alternates
Poland	Mr Michal GAWRYSZCZAK Mr Jacek MĘCINA	Mr Tomasz WIKA
Portugal	Ms Cristina NAGY MORAIS Mr Nuno BERNARDO	Mr Marcelino PENA COSTA
Slovenia	Ms Urška JEREB Ms Metka PENKO NATLAČEN	Ms Staša PIRKMAIER
Slovakia	Mr Vladimír KALINA Mr Jozef ORGONÁŠ	Ms Jana CHRKAVÁ
Finland	Ms Katja LEPPÄNEN Mr Mikko RÄSÄNEN	Mr Mikko NYYSSÖLÄ
Sweden	Mr Leif LINDBERG Ms Karin EKENGER	Mr Fabian WALLÉN
United Kingdom	Mr Tom MORAN — [1]	Mr Anthony THOMPSON

[1] The United Kingdom has waived its right to a second member.

Article 2

The Council shall appoint at a later date the members from Belgium, Italy, Malta and Sweden, who have not yet been nominated.

Done at Brussels, 15 September 2006

For the Council
The President
E. TUOMIOJA

Joint Declaration on political dialogue between the European Union and Montenegro [1]

(2006/C 242/02)

Based on the commitments undertaken at the EU-Western Balkans Summit held in Thessaloniki on 21 June 2003, the European Union and Montenegro (hereinafter referred to as 'the Parties') express their resolution to reinforce and intensify their mutual relations in the political fields.

Accordingly, the Parties agree to establish a regular political dialogue which will accompany and consolidate their rapprochement, support the political and economic changes underway in Montenegro, and contribute to establish new forms of cooperation, in particular taking into account Montenegro's status as a potential candidate for European Union membership.

The political dialogue, based on shared values and aspirations, will aim at:

1. Reinforcing democratic principles and institutions as well as rule of law, human rights and respect for and protection of minorities;
2. Promoting regional cooperation, development of good neighbourly relations and fulfilment of obligations under international law, including full and unequivocal cooperation with the ICTY;
3. Facilitating the integration of Montenegro to the fullest possible extent into the political and economic mainstream of Europe based on its individual merits and achievements;
4. Increasing convergence of positions between the Parties on international issues, and on those matters likely to have substantial effects on the Parties, including cooperation in the fight against terrorism, organised crime and corruption, and in other areas in the field of justice and home affairs;
5. Enabling each Party to consider the position and interests of the other Party in their respective decision making process;
6. Enhancing security and stability in the whole of Europe and, in particular, in South-Eastern Europe, through cooperation in the areas covered by the Common Foreign and Security Policy of the European Union.

The political dialogue between the Parties will take place through regular consultations, contacts and exchange of information as appropriate, in particular in the following formats:

1. High-level meetings between representatives of Montenegro on the one hand, and representatives of the European Union, in the Troika format, on the other;
2. Providing mutual information on foreign policy decisions taking full advantage of diplomatic channels, including contacts at the bilateral level in third countries as well as within multilateral fora such as the United Nations, OSCE and other international organisations;
3. Contacts at parliamentary level;
4. Any other means which would contribute to consolidating, and developing dialogue between the Parties.

Political dialogue will also take place within the framework of the EU-Western Balkans Forum, the high level multilateral political forum established at the EU-Western Balkans Summit held in Thessaloniki.

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[1] Text adopted by the Council on 15 September 2006.

COMMISSION

Euro exchange rates [1]

6 October 2006

(2006/C 242/03)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,2664	SIT	Slovenian tolar	239,63
JPY	Japanese yen	149,47	SKK	Slovak koruna	37,112
DKK	Danish krone	7,4559	TRY	Turkish lira	1,8912
GBP	Pound sterling	0,67290	AUD	Australian dollar	1,6969
SEK	Swedish krona	9,2778	CAD	Canadian dollar	1,4234
CHF	Swiss franc	1,5881	HKD	Hong Kong dollar	9,8582
ISK	Iceland króna	86,08	NZD	New Zealand dollar	1,9065
NOK	Norwegian krone	8,4315	SGD	Singapore dollar	2,0064
BGN	Bulgarian lev	1,9558	KRW	South Korean won	1 202,00
CYP	Cyprus pound	0,5767	ZAR	South African rand	9,8977
CZK	Czech koruna	28,200	CNY	Chinese yuan renminbi	10,0098
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,3997
HUF	Hungarian forint	273,76	IDR	Indonesian rupiah	11 660,38
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,6699
LVL	Latvian lats	0,6961	PHP	Philippine peso	63,320
MTL	Maltese lira	0,4293	RUB	Russian rouble	33,9780
PLN	Polish zloty	3,9298	THB	Thai baht	47,482
RON	Romanian leu	3,5164			

[1] *Source:* reference exchange rate published by the ECB.

UNIFORM APPLICATION OF THE COMBINED NOMENCLATURE (CN)

(Classification of goods)

(2006/C 242/04)

Explanatory notes adopted in accordance with the procedure defined in Article 10 (1) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1]

The explanatory notes to the Combined Nomenclature of the European Communities [2] shall be amended as follows:

On page 374:

9503 Other toys; reduced-size ('scale') models and similar recreational models, working or not; puzzles of all kinds

The existing text shall be replaced by the following:

'This heading includes:

1. Inflatable articles, in different forms and sizes, intended for play in the water, such as waist rings, animal shapes, etc., decorated or not, whether or not designed to sit in or on.

2. Inflatable boats designed for children to play in.

This heading does not include:

(a) Inflatable arm rings, neck rings, belts or similar articles, not constructed for security or rescuing purposes, providing buoyancy for a person, i.e. to keep them afloat, for example while learning to swim (heading 9506).

(b) Inflatable mattresses (generally constituent material).

(c) Articles which, on account of their design, are intended exclusively for animals (e.g. fabric "mice" containing cat-mint, buffalo hide shoes "for chewing", plastic bones).

See also Note 4 to this chapter.'

On page 375 insert the following text:

'9506 29 00 Other

This subheading includes inflatable arm rings, neck rings, belts or similar articles, not constructed for security or rescuing purposes, providing buoyancy for a person learning to swim.

This subheading does not include:

(a) Life-belts and life-jackets (constituent material).

(b) Inflatable articles constructed for play (heading 9503).'

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[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 996/2006 (OJ L 179, 1.7.2006, p. 26).

[2] OJ C 50, 28.2.2006, p. 1.

Prior notification of a concentration

(Case COMP/M.4337 — Thales/Alcatel Divisions Transport et Systèmes)

(2006/C 242/05)

(Text with EEA relevance)

1. On 29 September 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which the undertaking Thales S.A. ('Thales', France) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the Transport and Systems assets of Alcatel ('Alcatel Divisions Transport et Systèmes', France) by way of purchase of shares and assets.

2. The business activities of the undertakings concerned are:

— for Thales: integration of critical information systems for the defence, the aeronautics and the transport industry and for public administrations;

— for Alcatel Divisions Transport et Systèmes: manufacturing of signalling and supervision equipment for the rail industry and integration of critical information systems for the rail, airports and the oil and gas industry.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4337 — Thales/Alcatel Divisions Transport et Systèmes, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

[1] OJ L 24, 29.1.2004, p. 1.

Prior notification of a concentration

(Case COMP/M.4300 — Philips/Intermagnetics)

(2006/C 242/06)

(Text with EEA relevance)

1. On 29 September 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 4(5) of Council Regulation (EC) No 139/2004 [1] by which the undertaking Koninklijke Philips Electronics N.V., part of the group Philips ('Philips', the Netherlands) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Intermagnetics General Corporation ('Intermagnetics', United States) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Philips: research, development, manufacture and sale of a wide range of electronic products such as lighting product, domestic appliances, consumer electronics, semiconductors and medical equipment, including magnetic resonance imaging devices;

— for Intermagnetics: development, manufacture and marketing of superconducting materials and medical devices, including magnets and coils used in magnetic resonance imaging systems.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4300 — Philips/Intermagnetics, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

[1] OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration

(Case COMP/M.4238 — E.ON/Prazská Plynárenská)

(2006/C 242/07)

(Text with EEA relevance)

On 11 July 2006, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— from the Europa competition website (http://ec.europa.eu/comm/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website under document number 32006M4238. EUR-Lex is the on-line access to European law. (http://ec.europa.eu/eur-lex/lex)

Non-opposition to a notified concentration

(Case COMP/M.4326 — BC Partners/Brenntag)

(2006/C 242/08)

(Text with EEA relevance)

On 31 August 2006, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— from the Europa competition website (http://ec.europa.eu/comm/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website under document number 32006M4326. EUR-Lex is the on-line access to European law. (http://ec.europa.eu/eur-lex/lex)

Non-opposition to a notified concentration

(Case COMP/M.4177 — BASF/Degussa)

(2006/C 242/09)

(Text with EEA relevance)

On 24 May 2006, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— from the Europa competition website (http://ec.europa.eu/comm/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website under document number 32006M4177. EUR-Lex is the on-line access to European law. (http://ec.europa.eu/eur-lex/lex)

Publication of decisions by Member States to grant or revoke operating licenses pursuant to Article 13(4) of Council Regulation No 2407/92 on licensing of air carriers [1] [2]

(2006/C 242/10)

(Text with EEA relevance)

AUSTRIA

Operating licences granted

Category A: Operating licences without the restriction of Article 5(7)(a) of Regulation No 2407/92

Name of air carrier	Address of air carrier	Permitted to carry	Decision effective since
AVIA CONSULT Flugbetriebsgesellschaft m.b.h.	Promenadenweg A-2522 Oberwaltersdorf	passengers, mail, cargo	25.8.2006
Wucher Helicopter GmbH	Hans-Wucher-Platz 1 A-6713 Ludesch	passengers, mail, cargo	8.9.2006

Category B: Operating licences including the restriction of Article 5(7)(a) of Regulation No 2407/92

Name of air carrier	Address of air carrier	Permitted to carry	Decision effective since
LFU — Peter Gabriel	Firmiangasse 23 A-1130 Wien	passengers, mail, cargo	24.8.2006
Rath Aviation GmbH	Franz-Peyerl-Straβe 7 A-5020 Salzburg	passengers, mail, cargo	29.8.2006
DJT Aviation GmbH & Co. KG	Fyrtagweg 5 A-8043 Graz	passengers, mail, cargo	4.9.2006

[1] OJ L 240, 24.8.1992, p. 1.
[2] Communicated to the European Commission before 31.8.2005

French national procedure for the allocation of limited air traffic rights

(2006/C 242/11)

In accordance with Article 6 of Regulation (EC) No 847/2004 on the negotiation and implementation of air service agreements between Member States and third countries, the European Commission publishes the following national procedure for the distribution among eligible Community carriers of air traffic rights where they are limited under air service agreements with third countries.

'MINISTRY FOR TRANSPORT, INFRASTRUCTURE, TOURISM AND THE SEA

Order of 20 September 2005 on the granting of licences to operate scheduled air services between France and countries outside the European Union for Community air carriers established in France

NOR: *EQUA0501520A*

THE MINISTER FOR TRANSPORT, INFRASTRUCTURE, TOURISM AND THE SEA,

Having regard to the Convention on International Civil Aviation of 7 December 1944 and its amending protocols;

Having regard to the Treaty establishing the European Community, in particular Article 43;

Having regard to the Agreement on the European Economic Area, signed in Porto on 2 May 1992, and the protocol adapting the aforementioned Agreement, signed in Brussels on 17 March 1993;

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, signed in Luxembourg on 21 June 1999;

Having regard to Council Regulations (EEC) Nos 2407/92 and 2408/92 of 23 July 1992 on licensing of air carriers and access for Community air carriers to intra-Community air routes;

Having regard to Regulation (EC) No 847/2004 of the European Parliament and of the Council of 29 April 2004 on the negotiation and implementation of air service agreements between Member States and third countries;

Having regard to the Civil Aviation Code, in particular Article R 330-6;

Having regard to Law No 94-665 of 4 August 1994 on the use of the French language;

Having regard to Law No 2000-321 of 12 April 2000 on the rights of citizens in their relations with the public administration, in particular Articles 19 and 21;

Having regard to the Declaration on the right of establishment adopted by the Council of Transport Ministers of the European Union on 5 June 2003,

HEREBY ISSUES THE FOLLOWING ORDER:

Article 1

For the purposes of this Order:

— "Community air carrier" means any air carrier holding a licence under Council Regulation (EEC) No 2407/92 of 23 July 1992 issued by France or another Member State of the European Community;

— "traffic rights" means the right of an air carrier to transport passengers, freight, or mail on an air service on the basis of a specific route, schedule, capacity and code-sharing arrangements, as appropriate.

Article 2

Community air carriers established in France under the terms of Community law wishing to operate scheduled air services on lines comprising at least one stopover in France, and to which Regulation (EEC) No 2408/92 does not apply, shall submit to the Minister responsible for civil aviation a file containing the following:

a) the undertaking's operating licence, the air operator's certificate and the insurance certificate for the intended operation;

b) the justification for the carrier's establishing itself in France;

c) a description of the planned service (planned lines, service frequencies and days of service, type of aircraft used, intended start date for service, possible code sharing, tariffs, traffic forecasts, projected operating account over three years);

d) elements enabling assessment of the applicant air carrier's operational and financial capacity to operate the intended services, particularly in accordance with Article 5 of Regulation (EEC) No 2407/92.

The operational financial standing of the different Community carriers shall be assessed according to identical criteria.

Only applications accompanied by a complete file either in French or, if the originals are in a language other than French, accompanied by a French translation, will be examined.

The Minister responsible for civil aviation may ask for additional information.

Article 3

Notwithstanding the provisions of Article 2 of this Order, any application by an air carrier to increase the number of services on a route it is operating shall be examined on the basis of a simplified file as regards item *c* of Article 2 of this Order; the file shall specify, where applicable, any changes that relate to the elements requested in items *a, b* and *d* of the aforementioned article of this Order.

Article 4

For the purposes of applying Article 5 of Regulation (EC) No 847/2004, Community air carriers established in France are requested to make their applications known within fifteen days of the publication of the availability of traffic rights.

The publication mentioned in the previous subparagraph is carried out by means of inclusion in the *Journal officiel*.

Article 5

In the event of competing applications and the limitation of either the traffic rights or the number of Community air carriers permitted to exercise these rights, files shall be assessed within two months as long as the applications meet the conditions laid down in Article 2 of this Order; as part of the assessment of applications, the Minister responsible for civil aviation may ask for additional information and, where appropriate, hold hearings.

In all cases, the operating licence shall be issued to the applicant air carrier under the conditions provided for in Article 8 of this Order, as long as the application meets the conditions laid down in Article 2 herein.

Article 6

Subject to the provisions of the bilateral agreement for air services in question, competing applications shall be assessed by the Minister responsible for civil aviation on the basis of the following criteria:

— the satisfaction of air transport demand (mixed or freight-only services, direct or indirect services, service frequencies, days of service);

— the tariff policy (particularly ticket prices, provision for reductions and other adjustments);

— the quality of the service (particularly the layout of the aircraft, provision for the substitution of tickets and the existence of sales offices open to the public);

— the contribution to creating a satisfactory level of supply-side competition;

— the intended date for the launch of the service;

— the presence of guarantees with regard to the sustainability of the service;

— the potential for increasing the market share of Community-registered aircraft on the route in question;

— the environmental performances of the aircraft used, particularly with regard to noise pollution;

— the development of connecting flights for passengers.

The following criteria may also be taken into account:

— the seniority of the application, actively and repeatedly submitted;

— the contribution to regional planning;

— the potential for developing tourism in France;

— the compliance of the aircraft with the standards in force at the French airports they serve;

— the carrier's situation with regard to payment of French aeronautical taxes and charges;

— the existence of a French language sales service.

Article 7

In order to apply the first subparagraph of Article 5 of this Order, the Minister responsible for civil aviation shall publish a draft Decision in electronic form on the site of the Directorate-General for Civil Aviation. Interested parties may submit written comments within fifteen days of the publication of this document.

The final decision on issuing a licence to operate air services shall be taken under the conditions laid down in Article 8 of this Order within thirty days of publication of the draft Decision.

Article 8

The licence to operate air services shall be granted by order of the Minister responsible for civil aviation, published in the *Journal officiel*.

That Order shall specify, if necessary, the validity period of the licence, the frequency of services, the aircraft capacity, and any other conditions imposed under the terms of the bilateral or multilateral air services agreements.

In the event of failure to comply with the criteria laid down in Article 2 of this Order, a serious breach in air safety, the written withdrawal of a carrier from operation of the respective air service, or the complete or partial failure to make use of the traffic rights for a period equal to or exceeding six months, the licence may be suspended or withdrawn by reasoned decision of the Minister responsible for civil aviation, once the carrier has been asked to present its explanations.

If a carrier authorised under Article 6 of this Order fails to comply with the commitments it has entered into under this Order, the Minister may also suspend or withdraw the licence.

Notwithstanding the provisions of the previous subparagraphs, the licence may not be suspended or withdrawn if exceptional circumstances beyond the control of the licence holder render performance of the services concerned impossible.

Article 9

The provisions of this Order shall not apply to the regional authorities of St Pierre-et-Miquelon.

Article 10

The Director-General for Civil Aviation shall be responsible for the implementation of this Order, which will be published in the *Journal officiel*.

Done at Paris, on 20 September 2005.

For the Minister and by delegation

The Director-General for Civil Aviation

Mr WACHENHEIM'

Commission Decision declaring that the measure notified by the Czech Republic, under the interim mechanism pursuant to Annex IV.3 of the Act of Accession, is not applicable after accession — State aids

(2006/C 242/12)

(Text with EEA relevance)

Date of adoption of the decision: 3.3.2004

Member State: The Czech Republic

Aid No: State aid No CZ 53/2003

Title: Banka Haná, a.s.

Objective: Aid to the banking sector

Other information: Commission decision declaring that the measures in favour of Banka Haná, a.s., notified by the Czech Republic under the interim mechanism pursuant to Annex IV.3 of the Accession Act, is not applicable after accession.

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 3.3.2004

Member State: The Czech Republic

Aid No: State aid No CZ 54/03

Title: Foresbank, a.s.

Objective: Aid to the banking sector

Other information: Commission decision declaring that the measures in favour of Foresbank, a.s., notified by the Czech Republic under the interim mechanism pursuant to Annex IV.3 of the Accession Act, are not applicable after accession.

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty

Cases where the Commission raises no objections

(2006/C 242/13)

(Text with EEA relevance)

Date of adoption: 22.6.2006

Member State: France

Aid No: N 70a/06

Title: Prorogation et extension du dispositif des Zones Franches Urbaines

Objective: The objective of the scheme is to promote and develop depressed urban areas in France, determined on a geographical basis

The measures notified aim to strengthen the local economic fabric, comprising for the most part small businesses, allowing for new developments and the creation of businesses, via incentives in the form of specific tax exemptions and exemptions from social security contributions that will help promote employment

Legal basis: Article 87, paragraphe 3, sous c), du Traité CE

Planned annual expenditure: Total annual budget planned is EUR 35 million in 2006 and should reach EUR 100 million in 2011

Duration (end date): 31.12.2011

Other information: Scheme — Tax exemptions and exemptions from social security contributions

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption: 16.5.2006

Member State: Ireland

Aid No: N 151/2006(modification of aid N 387/2004)

Title: Tax relief for investment in films

Objective:: Culture/promoting investments in film production

Legal basis: Section 481 of the Taxes Consolidation Act, 1997, as amended

Budget: EUR 25 million-EUR 50 million per annum

Aid intensity or amount: approximately 18,8 %

Duration: 2006-2008

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption: 15.6.2006

Member State: Italy (Province of Mantova)

Aid No: N 240/06

Title: Modification to scheme N 620/05 'Investment aid for the creation of biogas plants in the province of Mantova'

Objective: Environmental aid for the creation of two biogas plants

Legal basis:

— Delibera Giunta Regionale n. 19839 del 16.12.2004 — «Progetto Fo.R.Agri. Fonti rinnovabili in Agricoltura in Provincia di Mantova»

— Delibera Giunta Provinciale n. 20 del 3.2.2005 — «Presa d'atto sottoscrizione accordo quadro sviluppo territoriale — progetto Fo.R.Agri»

Budget: 1 million EUR

Aid intensity or amount: Maximum 40 % + 10 % for SMEs

Duration: 3 years

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption: 31.3.2006

Member States: Italy

Aid No: N 530/05

Title: CPR System — Sviluppo Italia

Objective: SME

Legal basis: Delibera CIPE n. 90 del 4 agosto 2000 su criteri e modalità di intervento di Sviluppo Italia

Budget: EUR 479 530 (gross)

Aid intensity or amount: 5,96 %

Duration: 2006 — 2021

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption: 6.9.2005

Member States: Germany

Aid No: NN 72/2005

Title: Bayern LB

Aid intensity or amount: Measure not constituting aid

Duration: Unlimited

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the Proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (COM(2005) 649 final)

(2006/C 242/14)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty establishing the European Community, and in particular its Article 286,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular its Article 8,

Having regard to 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,

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, and in particular its Article 41,

Having regard to the request for an opinion in accordance with Article 28 (2) of Regulation No 45/2001 received on 29 March 2006 from the Commission;

HAS ADOPTED THE FOLLOWING OPINION:

I. **Introduction**

Consultation of the EDPS

1. The proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations was sent by the Commission to the EDPS by letter dated 29 March 2006. According to the EDPS, the present opinion should be mentioned in the preamble of the Regulation.

The proposal in its context

2. The EDPS welcomes this proposal, to the extent it aims at facilitating the recovery of cross-border maintenance claims within the EU. The proposal has a wide scope, since it addresses matters related to jurisdiction, applicable law, recognition, enforcement and cooperation. This opinion will be limited to the provisions having an impact on personal data protection, in particular those relating to the cooperation and the exchange of information making it possible to locate the debtor and to evaluate his assets and those pertaining to creditor (chapter VIII and Annex V).

3. In particular, the proposal envisages the designation of national central authorities to facilitate the recovery of maintenance claims through the exchange of relevant information. The EDPS agrees that exchange of personal data shall be allowed to the extent it is necessary to locate debtors and evaluate their assets and incomes, while fully respecting the requirements stemming from Directive 95/46/EC, on the protection of individuals with regard to the processing of personal data (Recital 21). Therefore, the EDPS welcomes the reference (Recital 22) to the respect for private and family life, and the protection of personal data, as laid down by Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

4. In particular, the proposal lays down a mechanism of exchange of information about the debtor and the creditor of maintenance obligations, with a view to facilitating the establishment and the recovery of maintenance claims. For this purpose, central national authorities will be designated in order to handle requests of information lodged by national judicial authorities (of other Member States) and collect personal data from different national administrations and authorities in order to fulfil these requests. The usual procedure will be as follows: a creditor will lodge an application through a court; the national central authority, upon request of the Court, will send an application to the central authorities of the requested Member State (through a specific form contained in Annex V); the latter central authorities will gather the requested information and will reply to the requesting central authority, which will then provide the information to the requesting court.

5. The EDPS in this opinion will promote the respect for the fundamental right to protection of personal data, while ensuring efficiency of the proposed mechanisms aimed at facilitating the recovery of cross-border maintenance claims.

6. In this perspective, it is first of all necessary to analyse the context of the proposal, by analysing the relevant specificities of maintenance obligations. Indeed, first of all maintenance obligations are very complex, since they embrace a variety of situations: claims may relate to children, to spouses or divorced spouses, and even to parents or grandparents. Furthermore, maintenance claims are based on ongoing and dynamic situations, and they can be managed both by private and public parties ([1]).

7. This complexity, which is confirmed by the Commission's Impact Assessment ([2]), increases if one considers the huge differences in this field between the 25 Member States. Indeed, substantive and procedural laws differ broadly in matters relating to the establishment of maintenance obligations, their assessment and duration, the investigatory powers of the courts, etc.

8. The diversity of maintenance obligations is already reflected in some provisions of the proposal. For instance, Recital 11 and Article 4(4) specifically refer to maintenance obligations in respect of a minor child, while Recital 17 and Article 15 make a difference between obligations in respect of children, vulnerable adults, spouse and ex-spouses and other kinds of maintenance obligations.

9. The aforementioned considerations shall be duly taken into account also when addressing issues relating to protection of personal data, in particular when assessing the proportionality of the exchange of information. Indeed, different kinds of maintenance obligations may entail different powers of national courts to request information, and may also determine which kind of personal data may be processed and exchanged in a specific case. This is even more important if one considers that the present proposal does not aim at harmonizing Member States' national laws on maintenance obligations.

The choice of a centralised system

10. As already mentioned, the proposal envisages a system whereby information is exchanged indirectly through the national central authorities rather than directly by the courts. This choice is not neutral from a data protection point of view and should be adequately justified. Indeed, the additional transfers of information between courts and central authorities, as well as the temporary storage of information by the latter authorities will increase the risks for the protection of personal data.

([1]) A reference to maintenance obligations paid by public authorities can be found in Article 16 of the proposal.

([2]) Commission Staff Working Document — Impact Assessment, of 15 December 2005, pages 4-5.

11. The EDPS considers that the Commission, when assessing the various policy options, should consider specifically and in greater detail — both in its preliminary impact assessment study and in the development of the proposal — the impact on the protection of personal data of each of the possible options and the possible safeguards. In particular, with regard to this proposal, it is essential that the provisions regulating the activity of the central authorities precisely circumscribe their tasks and clearly define the functioning of the system.

II. **The relations with current data protection legal framework**

12. The EDPS notes that the current proposal should not only take into account the complexity of national provisions on maintenance obligations, but should also ensure full compliance with existing national legislation on protection of personal data, adopted pursuant to Directive 95/46/EC.

13. Indeed, the proposal lays down the access by national central authorities to personal data held by different national administrations and authorities. These personal data — that have been collected by different authorities for purposes other than the recovery of maintenance claims — will be gathered by national central authorities and then transmitted to the requesting judicial authority of a Member State through the designated central authority of the latter. From a data protection point of view, this raises different kinds of issues: the change in the purpose of processing, the legal grounds for processing by national central authorities, and the definition of the data protection rules applicable to further processing by judicial authorities.

Change in the purpose of processing

14. One of the basic principles of the protection of personal data is the purpose limitation principle. Indeed, according to this principle personal data must be 'collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes' (Article 6(1) of Directive 95/46/EC).

15. However, the change in the purpose for which personal data are processed could be justified by virtue of Article 13 of Directive 95/46/EC, which lays down some exemptions to this general principle. In particular, Article 13(1), letter f) — exercise of official authority — or letter g) — the protection of the data subjects or of the rights and freedoms of others — could justify in this case an exception to the purpose limitation principle and could allow these national administrations and authorities to transmit the requested personal data to the national central authority.

16. Nonetheless, Article 13 of the aforementioned directive requires that these exceptions shall be necessary and based on legislative measures. This means that either the proposed regulation — by virtue of its direct applicability — shall be considered to be sufficient to meet the requirements of Article 13, or Member States will have to adopt specific legislation. In any case, the EDPS strongly recommends that the proposal lays down an explicit and clear obligation for relevant national administrations and authorities to provide national central authorities with requested information. This would ensure that the transmission of personal data by national administrations to national central authorities would be clearly necessary for compliance with a legal obligation to which relevant national administrations are subject, and thus based on Article 7(c) of Directive 95/46/EC.

Legal grounds for processing of personal data by national central authorities

17. Similar considerations shall be made in relation to the legal grounds on which the processing of personal data by national central authorities is based. Indeed, designating or setting up these authorities according to the proposal will entail that they will collect, organize and further transmit personal data.

18. The processing of personal data by national central authorities could be based on Article 7(c) or (e) of Directive 95/46/EC, since this processing would be necessary for compliance with the legal obligations (laid down by the proposal) to which national central authorities are subject or the performance of a public task entrusted to them.

Processing by judicial authorities and applicability of Directive 95/46/EC

19. As far as further processing by judicial authorities is concerned, the legal basis of the regulation shall be taken into account. Indeed, Articles 61 and 67 TEC have been brought within the scope of the EC Treaty by the Treaty of Amsterdam. This means that the scope of application of Directive 95/46/EC, which excludes activities falling outside Community law, covers this area only since the Treaty of Amsterdam entered into force. Therefore, since this area was not covered by the directive when it was adopted, it is likely that not all Member States have fully implemented data protection rules with regard to the activities of civil judicial authorities: harmonisation of national DP law, in particular in this field, is far from being complete. Meanwhile, the Court of Justice confirmed in the *Österreichischer Rundfunk* case ([1]), that Directive 95/46/EC has a wide scope and that only specific exceptions to its basic principles can be accepted. Furthermore, the Court laid down a list of criteria that are relevant also with regard to this proposal. In particular, the Court ruled that interference with private life, such as those exceptions to data protection principles that are based on a public interest objective, should be proportionate, necessary, laid down by law and foreseeable.

20. The EDPS notes that it would be highly desirable to explicitly clarify the full applicability of data protection rules stemming from Directive 95/46/EC. This could be done by adding a specific paragraph to Article 48, which currently addresses the relations and possible conflicts with other community instruments, but does not mention Directive 95/46/EC.

The legal basis of the proposal

21. The proposed legal basis gives the occasion to reiterate some remarks already made in previous opinions ([2]).

22. Firstly, the legal basis allows the Council to decide to transfer this area from unanimity to the co-decision procedure. Here again, the EDPS expresses his preference for the latter procedure, which can better guarantee a full involvement of all institutions and that the fundamental right to personal data protection is fully taken into account.

23. Secondly, in this area the Court of Justice, according to Article 68 TEU, still has limited powers, especially with regard to preliminary rulings. This requires even more clarity in the drafting of the provisions of this proposal, also in relation to issues concerning the protection of personal data, with a view to ensuring a uniform application of the proposed regulation.

Possible future exchanges of personal data with third countries

24. The current proposal does not provide for exchanges of personal data with third countries, but international cooperation is explicitly envisaged in the explanatory memorandum. In this context, it is noteworthy to mention the ongoing negotiations for a new comprehensive Convention of the Hague Conference on Private International Law concerning international recovery of maintenance.

25. It goes without saying that this international cooperation is likely to lay down mechanisms for exchanges of personal data with third countries. In this regard, the EDPS would like to stress again that these exchanges should be allowed only if the third country ensures an adequate level of protection of personal data or if the transfer falls within the scope of one of the derogations laid down by Directive 95/46/EC.

([1]) Judgement of 20 May 2003 in Joined Cases C-465/00, C-138/01 and C-139/01.

([2]) Opinion on data retention of 26 September 2005, point 42; Opinion on Data Protection in Third Pillar of 19 December 2005, point 11; Opinion on Schengen Information System II of 19 October 2005, paragraph 9.

III. **Purpose limitation**

26. In the context of this proposal, specific attention shall be paid to the basic principle of purpose limitation.

27. Indeed, while central national authorities and national courts shall be allowed to carry out their tasks properly, by processing relevant information for the purpose of facilitating the enforcement of maintenance claims, this information shall not be used for incompatible purposes.

28. In the current text, the definition and limitation of purposes is dealt with by Articles 44 and 46.

29. Article 44 lays down the specific purposes for which information shall be provided by national administrations and authorities to the relevant central authorities: to locate the debtor; to evaluate the debtor's assets; to identify the debtor's employer and to identify the bank accounts of the debtor.

30. The EDPS stresses that a complete and precise definition of the purposes for which personal data are processed is essential. In this perspective, the purpose of 'locating the debtor' shall be better defined. Indeed, for the purpose of maintenance obligations, locating the debtor shall be construed as referring to a location with a certain degree of stability (i.e., residence, centre of interests, domicile, place of work) — as specified in Annex V, which refers to debtor's address — rather than the location of the debtor in a specific moment in time (such as, for example, temporary location obtained through geolocalisation or GPRS data). The use of the latter data shall be excluded. In addition, a clarification in the concept of location would also help circumscribing the kinds of personal data that might be processed according to this proposal (see further, points 35-37).

31. Furthermore, the EDPS underlines that the proposal also lays down the possibility of exchanging personal data relating to the creditor (see Article 41(1)(a)(i)). The EDPS assumes that this kind of information is collected and processed with a view to assess the financial capacity of the creditor, which may in certain cases be relevant for the evaluation of a maintenance claim. In any event, it is essential that also the purposes for which data on creditor are processed are precisely and explicitly defined in the proposal.

32. EDPS welcomes Article 46, and in particular its paragraph 2, relating to the further use of information collected by the national central authorities. Indeed, the provision makes clear that information transmitted by central authorities to courts may be used only by a court and only to facilitate the recovery of maintenance claims. The possibility to send this information to the authorities in charge of the service of documents or to the competent authorities in charge of the enforcement of a decision is also proportionate.

IV. **Necessity and proportionality of personal data processed**

33. According to Directive 95/46/EC, personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are collected or further processed (Article 6(1)(c)). Furthermore, their processing shall be necessary, *inter alia*, for compliance with a legal obligation or for the performance of a task carried out in the public interests or in the exercise of official authority (Article 7, letters c) and e)).

34. On the contrary, the current proposal defines a minimum amount of information to which central authorities shall be given access, through a non exhaustive list of national administration and authorities. Indeed, Article 44(2) states that information shall include 'at least' information held by the administrations and authorities which are responsible in Member States for: taxes and duties; social security; population registers; land registers, registration of motor vehicles and central banks.

35. The EDPS stresses the need to define more precisely both the nature of personal data which can be processed according to this regulation, as well as the authorities whose databases can be accessed.

36. First of all, the kinds of personal data that can be accessed according to the proposed regulation should be limited. Article 44(2) should provide for a well-defined maximum — rather than just minimum — limit to the amount of information that can be accessed. Therefore, the EDPS recommends modifying Article 44(2) accordingly, either by deleting the words 'at least' or by providing other limitations to the information that can be transmitted according to the proposed regulation.

37. A limitation should relate not only to the authorities, but also to the kinds of data that can be processed. Indeed, personal data held by the authorities listed in the current proposal may broadly differ depending on the Member State. In some Member states, for instance, population registers may even contain fingerprints. Furthermore, by virtue of the growing interlinking of databases, public authorities may be considered to 'hold' an ever increasing amount of personal data which are sometimes extracted from databases controlled by other public authorities or private parties ([1]).

([1]) See EDPS Opinion on Exchange of information under the principle of availability of 28 February 2006, points 23-27.

38. Another important concern relates to special categories of data. Indeed, the current proposal might lead to collection of sensitive data. For instance, information provided by social security institutions may in some cases reveal trade union affiliation or health conditions. These personal data are not only sensitive, but are in most cases unnecessary to facilitate the enforcement of maintenance claims. Therefore, processing of sensitive data should be in principle excluded, pursuant to Article 8 of Directive 95/46/EC. However, in those cases where the processing of relevant sensitive data is necessary for reasons of substantial public interest, exemptions from the general prohibition may be laid down by national law or by decision of the competent supervisory authority, subject to the provision of suitable safeguards (Article 8(4) of Directive 95/46/EC).

39. The current definition of the kinds of personal data that can be accessed by central authorities is so generic that it would leave room even for processing of biometrics data, such as fingerprints or DNA data, in those cases where these data are held by the national administrations listed in Article 44(2). As the EDPS has already pointed out in other opinions ([1]), processing of these kinds of data, which may well be used to locate/identify a person, may entail specific risks and in certain cases may also reveal sensitive information about the data subject. Therefore, the EDPS considers that processing of biometrics data, which for instance might be considered acceptable for the establishment of a parental relationship, would be disproportionate for the enforcement of maintenance obligations and therefore should not be allowed.

40. Secondly, the principle of proportionality should determine on a case-by-case basis which personal data should be concretely processed within the scope of the potentially available information. Indeed, national central authorities and courts should be allowed to process personal data only to the extent that this is necessary in the specific case to facilitate the enforcement of maintenance obligations ([2]).

41. Therefore, the EDPS would recommend stressing this proportionality test by substituting in Article 44(1) the words 'information that can facilitate' with 'information necessary to facilitate in a specific case'.

42. In other provisions, the principle of proportionality is already duly taken into account. An example is given by Article 45, according to which a court may at any moment request information to locate the debtor, i.e. information which is strictly necessary to start a judicial procedure, while other personal data can be requested only on the basis of a decision given in matters relating to maintenance obligations.

43. The EDPS would also like to draw the attention of the legislator to the fact that, as already mentioned, the proposed regulation is not confined to recovery of maintenance claims for children, but extends also to maintenance claims by spouses or divorced spouses, and to maintenance of parents or grandparents.

44. With regard to this, the EDPS underlines that each kind of maintenance obligation may require a different balance of interests and thus determine to what extent processing of personal data is proportionate in a specific case.

V. **Proportionality in storage periods**

45. According to Article 6(e) of Directive 95/46/EC, personal data shall be kept for no longer than it is necessary for the purposes for which they were collected or further processed. Therefore, proportionality is the basic principle also when it comes to assess the period of time during which personal data are stored.

46. As far as storage by central authorities is concerned, the EDPS welcomes Article 46(1), according to which information is deleted after having forwarded it to the court.

47. With regard to storage by competent authorities in charge of the service of documents or the enforcement of a decision (Article 46(2)), the EDPS suggests that the words 'made use of it' be substituted with a reference to the time necessary for relevant authorities to fulfil the tasks connected to the purposes for which information was collected.

48. Also with regard to storage by judicial authorities, the EDPS argues that information shall be available for as long as it is necessary for the purpose for which it was collected or it is further processed. Indeed, in the case of maintenance obligations, information in some cases is likely to be needed for quite a long period of time, in order for the judge to be able to periodically reassess both the subsistence of the legal grounds for granting the maintenance obligations and properly quantify these obligations. Indeed, according to the information provided by the Commission, in the EU a maintenance claim is paid for 8 years on average ([3]).

([1]) Opinion on Schengen Information System II of 19 October 2005, paragraph 4.1; Opinion on Visa Information System of 23 March 2005, paragraph 3.4.

([2]) This is also the case of personal data provided by the requesting court with a view to identifying the debtor concerned, as laid down at point 4.1 of Annex V. For example, the provision of address of debtor's family members shall be strictly limited, on a case by case basis and depending on the kind of maintenance obligation concerned.

([3]) See Commission Staff Working Document — Impact Assessment, of 15 December 2005, p. 10.

49. For these reasons, the EDPS prefers a flexible but proportionate storage period rather than a rigid *a priori* limitation of the storage period to one year (as currently proposed by Article 46(3)), which can prove in certain cases too short for the envisaged purposes of the processing. Therefore, the EDPS proposes to delete the maximum storage period of one year: judicial authorities should be allowed to process personal data for as long as it is necessary in order to facilitate the recovery of the relevant maintenance claim.

VI. **Information to debtor and creditor**

50. The obligation to provide information to the data subject reflects one of the basic principles of data protection, enshrined in Articles 10 and 11 of Directive 95/46/EC. Furthermore, in this case information to data subjects is even more important since the proposal establishes a mechanism whereby personal data are collected and used for different purposes, and are further transferred and processed through a network that includes national administrations, different national central authorities and national courts. Therefore, the EDPS stresses the needs for a timely, comprehensive and detailed information notice, which would properly inform the data subject about all the various transfers and processing operations to which his/her personal data are subject.

51. In this perspective, the EDPS welcomes the obligation to provide information to the debtor laid down by Article 47 of the proposal. However, a timeframe to provide information should be added to Article 47. Furthermore, the EDPS notes that it is essential that adequate information is also provided to the creditor, in case personal data concerning him/her are exchanged.

52. The exception, according to which the notification to the debtor might be postponed when it might prejudice the effective recovery of a maintenance claim, is proportionate, also in consideration of the maximum length of postponement (no more than 60 days) laid down by Article 47.

53. A last remark concerns Annex V, which contains the application form for the transmission of information. This form currently presents the provision of information to debtor as a choice to be made by ticking the appropriate box. On the contrary, the provision of information shall be presented as a default option and a specific action (i.e. ticking the 'do not inform' box) should be required only in those exceptional cases in which information cannot be temporarily provided.

VII. **Conclusions**

54. The EDPS welcomes this proposal, to the extent it aims at facilitating the recovery of cross-border maintenance claims within the EU. The proposal has a wide scope and shall be considered in its specific context. In particular, the EDPS recommends duly taking into account the complexity and variety of maintenance obligations, the broad differences in Member States laws in this domain, and the obligations on protection of personal data stemming from Directive 95/46/EC.

55. Furthermore, the EDPS considers essential to clarify some aspects of the functioning of the system, such as the change in the purpose for which personal data are processed, the legal grounds for processing by national central authorities, and the definition of the data protection rules applicable to further processing by judicial authorities. In particular, the proposal should ensure that transfers of personal data from national administrations to national central authorities and processing by the latter authorities and national courts are carried out only when they are necessary, clearly defined, and based on legislative measures, according to the criteria laid down by data protection rules and complemented by the case law of the Court of Justice.

56. The EDPS also invites the legislator to specifically address the following substantive points:

— *Purpose limitation*. A complete and precise definition of the purposes for which personal data are processed is essential. Also the purposes for which data on creditor are processed should be precisely and explicitly defined in the proposal

— *Necessity and proportionality of personal data processed*. There is a need to define more precisely both the nature of personal data which can be processed according to this regulation, as well as the authorities whose databases can be accessed. A limitation should relate not only to the authorities, but also to the kinds of data that can be processed. The proposal should ensure that national central authorities and courts should be allowed to process personal data only to the extent that this is necessary in the specific case to facilitate the enforcement of maintenance obligations. Furthermore, each kind of maintenance obligation may require a different balance of interests and thus determine to what extent processing of personal data is proportionate in a specific case.

— *Special categories of data*. Processing of sensitive data for the purpose of enforcing maintenance obligations should be in principle excluded, unless it is carried out in compliance with Article 8 of Directive 95/46/EC. Processing of biometrics data for the enforcement of maintenance obligations would be disproportionate and therefore should not be allowed.

— *Storage periods*. EDPS prefers a flexible but proportionate storage period rather than rigid *a priori* limitation to a definite period of time, which can prove in certain cases too short for the envisaged purposes of the processing.

— *Information to creditor and debtor*. A timely, comprehensive and detailed information notice should properly inform the data subject about all the various transfers and processing operations to which his/her personal data are subject. It is essential that adequate information is also provided to the creditor, in case personal data concerning him/her are exchanged.

Done at Brussels on 15 May 2006

Peter HUSTINX

European Data Protection Supervisor