Fight against terrorism: processing and protection of personal data in the framework of police and judicial cooperation in criminal matters. Framework Decision

2005/0202(CNS) - 13/03/2007 - Amended legislative proposal for reconsultation

On 4 October 2005, the Commission forwarded a proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters ("DPFD") to the Secretary-General of the Council.

The Parliament delivered its opinion on 27 September 2006. The European Data Protection Supervisor has also delivered his opinion on the proposal, which he presented to the Multidisciplinary Group on Organised Crime (MDG)-Mixed Committee on 12 January 2006.

The Commission presented its proposal to the meeting of the MDG - Mixed Committee on 9 November 2005. The MDG discussed the proposal at length and completed the third reading at its meeting on 15 and 16 November 2006.

At a Council meeting, the Presidency set out a series of basic points for revising the proposal, with the aim of removing outstanding reservations and making a real improvement in third-pillar data protection.

The German Presidency is now submitting a revised draft Framework Decision draft which reflects those points.

The draft contains **a new provision** (Article 26) designed to replace the existing four data protection authorities within the **third pillar by a single independent joint supervisory body**, merging with it the advisory working party provided for in the earlier draft.

A separate Council Decision is necessary in order to establish that body. The Presidency intends as soon as possible to submit conclusions to the Council endorsing that aim and asking the Commission to bring forward a proposal for the relevant Council Decision.

The **new draft Framework Decision** provides that the joint supervisory authority:

- shall guarantee that the basic rights and freedoms, and in particular the privacy, of data subjects are fully protected when personal data are transmitted between Member States or institutions and bodies established on the basis of Council acts pursuant to Title VI of the Treaty on European Union;

- monitor the proper use of data-processing programs by which personal data are to be processed and advise the Commission and Member States on any proposed amendment of this Framework Decision, on any additional or specific measures to safeguard the rights and freedoms of natural persons with regard to the processing of personal data for the purpose of the prevention, investigation, detection and prosecution of criminal offences and on any other proposed measures affecting such rights and freedoms.

Other than the creation of a joint supervisory authority, the new version of the draft Framework Decision:

- applies only to data gathered or processed by competent authorities for the purpose of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties;

- applies the rules of the Framework Decision to national data-processing, in order that the conditions for transmitting data may already be met when the data are collected.

- allows the principle of public access to official documents to be taken into account when implementing the principles set out in this Framework Decision.