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LIMITE

**CRIMORG 68
DROIPEN 32
ENFOPOL 61
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NOTE

from : General Secretariat
to : Multidisciplinary Group on organised crime

No. prev. doc. : 7315/07 CRIMORG 53 DROIPEN 18 ENFOPOL 45 DATAPROTECT 10
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Subject : Proposal for a Council Framework Decision on the protection of personal data
processed in the framework of police and judicial cooperation in criminal matters

Delegations will find attached a copy of the “*Paper outlining the T-PD’s initial remarks concerning a proposal for a Council Framework Decision on the Protection of Personal Data processed in the Framework of Police and Judicial co-operation in criminal matters*” from the Consultative Committee of the Convention for the Protection of Individuals with regard to automatic processing of personal data (T-PD).

**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS
WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA**

(T-PD)

**PAPER OUTLINING THE T-PD'S INITIAL REMARKS
CONCERNING A PROPOSAL FOR A COUNCIL FRAMEWORK DECISION
ON THE PROTECTION OF PERSONAL DATA PROCESSED
IN THE FRAMEWORK OF POLICE AND JUDICIAL CO-OPERATION IN CRIMINAL
MATTERS**

As adopted by the T-PD at its 23rd plenary meeting (Strasbourg, 15-16 March 2007)

Secretariat document prepared by
the Directorate General of Legal Affairs

**PAPER OUTLINING THE T-PD'S INITIAL REMARKS CONCERNING A
PROPOSAL FOR A COUNCIL FRAMEWORK DECISION ON THE
PROTECTION OF PERSONAL DATA PROCESSED IN THE FRAMEWORK OF
POLICE AND JUDICIAL CO-OPERATION IN CRIMINAL MATTERS**

1. The Consultative Committee of the Convention for the protection of individuals with regard to automatic processing of personal data (ETS No 108, hereinafter Convention 108) welcomed the idea of the adoption of a Framework Decision on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters (hereinafter the Framework Decision). The aim of this paper is to contribute to the debate by drawing attention to a number of considerations based on Convention 108, its Additional Protocol on supervisory authorities and transborder data flows (ETS No 181, hereinafter the Additional Protocol) and Recommendation R(87) 15 regulating the use of personal data in the police sector. As the Framework Decision will be subject to changes whose scope remain unknown, this paper could be supplemented or updated in line with future developments.
2. The T-PD recalled that the principles of Convention 108 apply to police and judicial co-operation in criminal matters and that it should therefore be clear that the Framework Decision is without prejudice to the Convention. In addition, the T-PD stressed that the Framework Decision should aim to bring an added value to the basic data protection principles contained in Convention 108.
3. From the perspective of Convention 108, the scope of the Framework Decision should preferably be as wide as possible. Therefore, with a view to facilitating cross-border police and judicial co-operation and efficient protection, it would be desirable and coherent for the fundamental principles of data protection, as they will be transcribed in the Framework Decision, to cover not only cross-border data transfers but also national data processing.

4. The conditions under which personal data may be transferred to third countries or international organisations should respect the rules set out in Recommendation R(87) 15, as well as the principle of an adequate level of data protection, enshrined in the Additional Protocol to Convention 108. Where derogations from this principle are provided for, they should follow the conditions set out in the Additional Protocol and should be defined as specifically as possible, having regard to the purpose of the Framework Decision.
5. The T-PD also noted that the legal basis for future treaties with third countries that do not have an adequate level of protection should be clarified.
6. As a result, only a broad scope and the respect for the principle of an adequate level of protection can guarantee that the Framework Decision be a practical and efficient instrument, able to foster the mutual trust between member States that is necessary for police and judicial co-operation.
