COMMUNAUTES EUROPEENNES
LE CONSEIL

Bruxelles, le 10 novembre 1993

9925/93

RESTREINT

CK4 7

RESULTATS DES TRAVAUX

de : Groupe Horizontal Informatique

en date du : 4 novembre 1993

n° doc. préc. : CIRC 3679/93

Objet : **Projet de texte de la Convention créant un Système d'Information européen (SIE)**

Les délégations trouveront en annexe le projet de texte de la Convention citée en objet, assorti des observations faites par les délégations.

Ce texte doit être examiné en parallèle avec la note établie par la Présidence (doc. 9967/93 CK4 8) qui reprend en détail les points majeurs restés en suspens.

Il y a lieu de faire remarquer qu'un certain nombre de modifications ont été apportées au texte pour tenir compte de la mise en oeuvre du Traité sur l'Union européenne. Ces modifications, basées sur la note du Service juridique (doc. 9706/93 JUR 138) n'ont pas été examinées par le Groupe Horizontal.

Un certain nombre de délégations ont émis une réserve linguistique sur le projet de texte. La délégation italienne a émis une réserve générale, n'ayant pas pu disposer d'un texte en langue italienne lors des deux dernières réunions.

La délégation espagnole a également émis une réserve générale sur le projet de texte. Cette réserve porte sur l'approche différente adoptée par cette délégation à la présente Convention, en particulier en ce qui concerne la mise en oeuvre de la Convention sur le franchissement des frontières extérieures, l'application de l'article 7.A du Traité et son rapport avec la présente Convention, ainsi que les provisions relatives à la transmission automatisée et non-automatisée des données personnelles (voir également la note de la Présidence).

Translation for Statewatch

Council fo the european Community

Brussels, 10 November 1993

9925/93

RESTRICTED
CK4 7

Minutes
from Horizontal Group Information Technology **(HG henceforth)**
date 4 November 1993
document number CIRC 3679/93
re: proposed text for the Convention establishing a European Information System (EIS, or SIE)

The delegations are referred to the annex for the text of the proposed convention for questions and to the observations from the delegations.
This text must be examined jointly with the note from the Presidency (document 9967/93 CK4 8) which deals in detail with the main issues still to be resolved.
A number of amendments were made to the text, in order to take into account the implementation of the Treaty on European Union. These amendments, which were based on the note from the legal department (document 9706/93 JUR 103) have not been examined by the H.G yet.
A number of delegations have expressed a reservation concerning the language of the proposed text. The Italian delegation expressed a general reservation, as it was not able to obtain an Italian version at the first two meetings.
The Spanish delegation also expressed a general reservation on the proposed text. The reservation relates to the different approach adopted by this delegation to the Convention, specially in relation to the implementation of the Convention on External Borders, the application of Article 7a of the Treaty and its relationship with this convention, as well as provisions relating to the transmission of computerised and non-computerised personal data (see also note to the Presidency)

DRAFT COUNCIL DECISION

of

establishing the Convention on the European Information System on the basis of Article K.3 of the Treaty on European Union

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.3(2)(c) thereof,

Whereas for the purposes of achieving the objectives of the Union, the Member States regard the rules governing the crossing by persons of the external borders of the Member States and exercise of controls thereon, judicial co-operation and police co-operation as matters of common interest,

Has drawn up the provisions of the Convention ANNEXED to this Decision, which it recommends be adopted by the Member States in accordance with their respective constitutional requirements.

Done at Brussels,

For the Council

The President

DRAFT CONVENTION

on the European Information System

THE HIGH CONTRACTING PARTIES to the present convention, Member States of the European Union, referring to the Council Decision of .....

CONSIDERING the common objective of an area without internal frontiers in which persons can move freely in accordance with the provisions of Article 7a of the Treaty establishing the European Community;

WHEREAS the attainment of this objective implies that progress be made in solidarity and co-operation between the Member States of the European Union, in particular by means of effective checks on persons at the external frontiers of those States conducted in accordance with jointly agreed rules;

WHEREAS the attainment of this objective also implies that progress be made in police and judicial co-operation between the Member States of the European Union, notably through the rapid dissemination of information on persons who need to be sighted, reported or arrested;

WHEREAS such progress must enable public order and security to be maintained and illegal immigration to be effectively countered;

WHEREAS to this end the basis should be the information exchange system implemented by the countries signatory to the Convention applying the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders, signed on 19 June 1990,

HAVE AGREED AS FOLLOWS :

CHAPTER 1

Article 1

1. The Member States of the European Union shall set up and maintain a joint information system, hereinafter referred to as the European Information System, consisting of a national section to be established and maintained in each of the Member States and a separate technical support function. The European Information System shall enable the authorities designated by the Member States, by means of an automated search procedure, to have access to reports on persons and objects for the purposes of border checks and controls and other police and customs checks carried out within the territory of each Member State in accordance with national law, and, for the category of information referred to in Article 5 of this Convention, for the purposes of issuing visas and residence permits and the administration of aliens in the context of the application of the provisions of the Convention between the Member States of the European Communities on the Crossing of their External Frontiers, hereinafter referred to as the External Frontiers Convention.

2. Each Member State shall set up and maintain, on its own account and at its own risk, its national section of the European Information System, the data file of which shall, through the use of the technical support function, be made materially identical to the data files of the national sections of each of the other Member States. To ensure the rapid and effective transmission of data as referred to in paragraph 3, each Member State shall observe, when creating its national section, the protocols and procedures which the Member States have jointly established for the technical support function. The national section data file shall be available for the purposes of automated search within the territory of each of the Member States. It shall not be possible for one Member State to search the data files of the national sections of other Member States.

3. Member States shall set up and maintain jointly, and with joint liability for risks, the technical support function of the European Information System, the responsibility for which shall be assumed by the French Republic: the technical support function shall be located in Strasbourg. The technical support function shall consist of a data file which will be used to ensure that the data files of the national sections are kept identical by the on-line transmission of information. The data file of the technical support function shall contain reports on persons and objects where these are of concern to all the Member States. The data file of the technical support function shall contain no data other than those referred to in this paragraph and in Article 19.

CHAPTER 2

Operation of the European Information System

Article 2

The purposes of the European Information System shall be to maintain public order and security, including state security, and to allow for the operation of the External Frontiers Convention, in particular in order to support the implementation of the principle of free movement of persons in accordance with the Treaty establishing the European Community, using information transmitted by the system.

Article 3

1. The European Information System shall contain only the categories of data which are supplied by the Member States and are required for the purposes laid down in Articles 4 to 9. The Member State providing a report must have determined that the importance of the case warrants the inclusion of the report in the European Information System.

2. The categories of data shall be as follows:

   (a) persons reported;

   (b) objects referred to in Article 9 and vehicles referred to in Article 8.

3. The items of information included in respect of persons shall be no more than the following:

   (a) name and forename, any aliases possibly registered separately;

   (b) any particular objective and permanent physical features;

   (c) first letter of second forename;

   (d) date and place of birth;

   (e) sex;

   (f) nationality;

   (g) whether the persons concerned are armed;

   (h) whether the persons concerned are violent;

(i) reason for the report;

(j) action to be taken.

Other references, in particular the data listed in the first sentence of Article 6 of the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, shall not be authorized.

4. Insofar as a Member State considers that a report in accordance with Articles 4, 6 or 8 is incompatible with its national law, its international obligations or essential national interests, it may subsequently have added to the report in the data file of its national section of the European Information System a note to the effect that the action referred to will not be taken in its territory in connection with the reason for the report and in this circumstance should consult all other Member States. If the reporting Member State does not withdraw the report, it will continue to apply in full for all other Member States.

Article 4

1. Data relating to persons wanted for arrest for extradition purposes shall be included at the request of the competent authority of the requesting Member State.

2. A report included in the European Information System in accordance with this Article shall have the same force as a request for provisional arrest under Article 16 of the European Convention on Extradition of 13 December 1957 or Article 15 of the Benelux Treaty on Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974.

3. Before making a report, the reporting Member State shall check whether the arrest is authorized by the national law of the requested Member States. If the reporting Member State has doubts, it must consult the other Member States concerned.

   The reporting Member State shall send to the requested Member States together with the report, by the swiftest means, the following essential information relating to the case:

   (a) the authority which issued the request for arrest;

   (b) whether there is an arrest warrant or a document having the same force, or an enforceable judgment;

   (c) the nature and legal classification of the offence;

   (d) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the person reported;

   (e) as far as possible, the consequences of the offence.

4. A requested Member State may have added to the report in the file of the national section of the European Information System a note aimed at prohibiting, until such time as the note is deleted, arrest in connection with the report. The note shall be deleted no later than 24 hours after the report is included, unless the Member State refuses to make the requested arrest on legal grounds or for special reasons of expediency. Where, in particularly exceptional cases, this is justified by the complexity of the facts underlying the report, the above time limit may be extended to one week. Without prejudice to a note or a decision to refuse, the other Member States may make the arrest requested in the report.

5. If, for particularly urgent reasons, a Member State so requests, the Member State requested shall examine whether it is able to withdraw the note. The Member State requested shall take the necessary steps to ensure that the action to be taken can be carried out without delay if the report is validated.

6. If the arrest cannot be made because an investigation has not been completed or owing to a refusal by the requested Member State, the Member State concerned must regard the report as being a report for the purposes of communicating the place of residence.

7. The requested Member States shall carry out the action to be taken as requested in the report in compliance with extradition conventions in force and with national law. They shall not be required to carry out the action requested where one of their nationals is involved, without prejudice to the possibility of making the arrest in accordance with national law.

8. In relations between two Member States, one of which is not a party to the European Convention on Extradition of 13 September 1957, the provisions of the said Convention shall apply, subject to the reservations and declarations made at the time of ratifying that Convention and the Protocols annexed thereto or, for Member States which are not parties to the Convention, at the time of ratifying, approving or accepting the present Convention.

9. The French Republic undertakes to extradite, at the request of one of the Member States, persons against whom proceedings are being taken for offences punishable under French law by a custodial sentence or a preventive measure for a maximum period of at least two years and under the law of the requesting Member State by a custodial sentence or a preventive measure for a maximum period of at least one year.

Article 5

1. The European Information System shall be the computerized system referred to in Article 13 of the External Frontiers Convention and as such shall contain the joint list referred to in Article 10 thereof of persons to be refused entry to the territories of Member States under the terms of that Convention. The list shall be compiled in accordance with the criteria in Article 10 of that Convention.

2. This Convention shall constitute the special agreement referred to in Article 13(2) of the External Frontiers Convention.

Article 6

Data relating to persons who have disappeared or to persons who, in the interests of their own protection or in order to prevent threats, need to be placed provisionally in a place of safety at the request of the competent authority or competent judicial authority of the reporting Member State, shall be included in order that the police authorities can communicate their whereabouts to the reporting Member State or can remove the person to a place of safety for the purposes of preventing him from continuing his journey, if so authorised by national law. This shall apply in particular to minors and to persons who must be interned by decision of a competent authority. Communication of the information shall be subject to the consent of the person who has been reported as disappeared, provided he is of full age.

Article 7

1. Data relating to witnesses, to persons summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted, or to persons who are to be notified of a criminal judgment or of a summons to appear in order to serve a custodial sentence, shall be included, at the request of the competent judicial authorities, for the purposes of communicating their place of residence or domicile.

2. Information requested shall be communicated to the requesting Member State in accordance with national law and with the Conventions in force concerning mutual judicial assistance in criminal matters.

Article 8

1. Data relating to persons or vehicles shall be included, in compliance with the national law of the reporting Member State, for the purpose of sighting and reporting or of carrying out specific checks in accordance with paragraph 5.

2. Such a report may be made for the purposes of preventing criminal offences and for the prevention of threats to public safety:

   (a) where substantial evidence gives reason to believe that the person concerned intends to commit or is committing numerous and extremely serious offences, or

   (b) where an overall evaluation of the person concerned, in particular on the basis of offences committed hitherto, gives reason to suppose that he will also commit extremely serious offences in future.

3. In addition, a report may be made in accordance with national law, at the request of the authorities responsible for state security, where substantial evidence gives reason to believe that the information referred to in paragraph 4 is necessary for the prevention of a serious threat posed by the person concerned or other serious threats to internal or external state security. The reporting Member State shall be required to consult the other Member States beforehand.

4. In the context of sighting and reporting, the following information may in whole or in part be collected and transmitted to the reporting authority, when border checks or other police and customs checks within the country are carried out :

(a) the fact that the person reported or the vehicle reported has been found;

(b) the place, time or reason for the check;

(c) the route and destination of the journey;

(d) persons accompanying the person concerned or occupants of the vehicle;

(e) the vehicle used;

(f) objects carried;

(g) the circumstances under which the person or the vehicle was found.

When such information is collected, steps must be taken to ensure that the discreet nature of the sighting and reporting is not jeopardized.

5. In the context of the specific checks referred to in paragraph 1, persons, vehicles and objects carried may be searched in accordance with national law, in order to achieve the purpose referred to in paragraphs 2 and 3. If the specific check is not authorized in accordance with the national law of a Member State, it shall automatically be converted, for that Member State, into a request for sighting and reporting.

6. A requested Member State may have added to the report in the file of the national section of the European Information System a note prohibiting, until the note is deleted, performance of the action to be taken pursuant to the report for the purposes of sighting and reporting or specific checks. The note must be deleted no later than 24 hours after the report has been included unless the Member State refuses to take the action requested on legal grounds or for special reasons of expediency. Without prejudice to a qualifying note or a refusal decision, the other Member States may carry out the action requested in the report.

Article 9

1. Data relating to the specific categories of objects, sought for the purposes of seizure or, in the context of criminal proceedings, for the purpose of evidence in criminal proceedings, shall be included in the European Information System.

2. If a search brings to light the existence of a report on an item which has been found, the authority noticing the report shall contact the reporting authority in order to agree on the requisite measures. For this purpose, personal data may also be transmitted in accordance with this Convention. The measures to be taken by the Member State discovering the object must comply with its national law.

3. The categories of objects shall be:

(a) motor vehicles with a capacity in excess of 50 cc which have been stolen, misappropriated or lost;

(b) trailers and caravans with an unladen weight in excess of 750 kg which have been stolen, misappropriated or lost;

(c) firearms which have been stolen, misappropriated or lost;

(d) blank documents which have been stolen, misappropriated or lost;

(e) identification documents issued (passports, identity cards, driving licences) which have been stolen, misappropriated or lost;

(f) bank notes (registered notes).

4. In addition to these categories of objects, other categories of stolen, misappropriated or lost objects may be included in the European Information System by decision of the Executive Committee. Such a decision should also cover the length of time for retaining information on data as set out in Article 18 of this Convention.

Chapter 3

Application and security of data and the protection of personal data associated with the European Information System

Article 10

1. Access to data included in the European Information System and the right to search such data directly shall be restricted to the authorities in Member States responsible for:

   (a) border checks;

   (b) other police and customs checks carried out within the country, and the co-ordination of such checks.

2. In addition, access to data included in accordance with Article 5 and the right to search such data directly may be exercised by the other authorities listed in Article 13(3) of the External Frontiers Convention. Access to data shall be governed by the national law of each Member State.

3. Authorized users may search only data which are necessary for the performance of their tasks.

4. Each of the Member States shall communicate to the Executive Committee a list of the competent authorities which are authorized to search the data included in the European Information System directly. That list shall indicate for each authority the data which it may search, and for what purposes.

Article 11

1. The Member States may use the data provided for in Articles 4 to 9 only for the purposes laid down for each type of report referred to in those Articles.

2. Data may be duplicated only for technical purposes, provided that such duplication is necessary for direct searching by the authorities as referred to in Article 10. Reports by other Member States may not be copied from the national section of the European Information System to other national data files.

3. In connection with the types of report provided for in Articles 4 to 9 of this Convention, any derogation from paragraph 1 in order to change from one category of report to another must be justified by the need to prevent an imminent serious threat to public order and security, for serious reasons of state security or for the purposes of preventing a serious offence. The prior authorization of the reporting Member State must be obtained for this purpose.

4. Data may not be used for administrative purposes. By way of derogation, data included in accordance with Article 5 may be used, in accordance with the national law of each of the Member States, only for the purposes arising out of Article 13(3) of the External Frontiers Convention.

5. Any use of data which does not comply with paragraphs 1 to 4 will be considered as a misuse in relation to the national law of each Member State.

Article 12

Each Member State shall ensure that, on average, every tenth transmission of personal data is recorded in the national section of the European Information System by the data file managing authority for the purposes of checking the admissibility of searching. The recording may be used only for this purpose and shall be deleted after six months.

Article 13

1. The law applying to reports shall be the national law of the reporting Member State, unless more rigorous conditions are laid down in this Convention.

2. Insofar as this Convention does not lay down specific provisions, the national law of each Member State shall apply to data included in the national section of the European Information System.

3. Insofar as this Convention does not lay down specific provisions concerning performance of the action requested in the report, the national law of the Member State requested which carries out the action shall apply. Insofar as this Convention lays down specific provisions concerning performance of the action requested in the report, responsibility for the action to be taken shall be governed by the national law of the requested Member State. If the action requested cannot be performed, the requested Member State shall inform the reporting Member State without delay.

Article 14

The reporting Member State shall be responsible for ensuring that data which it has included in the European Information System are accurate, up to date and have been included lawfully.

Article 15

1. Only the reporting Member State shall be authorized to amend, supplement, correct or delete data which it has introduced.

2. If one of the Member States which has not made the report has evidence to suggest that an item of data has been included unlawfully or is factually inaccurate, it shall advise the reporting Member State thereof as soon as possible; the latter must check the communication and, if necessary, correct or delete the item in question without delay.

3. With a view to resolving any disagreement, the Member State which was not the originator of the report shall submit the case to the Joint Supervisory Authority referred to in Article 32 for its opinion.

Article 16

Where a person is already the subject of a report in the European Information System, a Member State which introduces a further report shall come to an agreement on the inclusion of the reports with the Member State which introduced the first report. The Member States may also adopt general provisions to this end.

Article 17

1. Personal data included in the European Information System on the basis of Articles 4 to 8 shall be kept only for the time required to achieve the purpose for which they were supplied. No later than three years after their inclusion, the need for their retention must be reviewed by the reporting Member State. This period shall be one year in the case of reports referred to in Article 8.

2. Each reporting Member State shall, where appropriate, set shorter review periods in accordance with its national law.

3. The technical support function of the European Information System shall automatically inform the reporting Member State of a scheduled deletion of data from the system, giving one month's notice.

4. The reporting Member State may, within the review period, decide to retain the report if its retention continues to be necessary for the purposes for which the report was made. Any extension of the period of the report must be communicated to the technical support function. The provisions of paragraph 1 shall apply to report extension.

Article 18

Data other than those referred to in Article 17 shall be retained for a maximum of ten years, data relating to identity documents issued and to registered bank notes for a maximum of five years and those relating to motor vehicles, trailers and caravans for a maximum of three years.

Article 19

Data which have been deleted from the national sections of the European Information System in accordance with Articles 17 and 18 shall continue to be retained for one year in the technical support function. During that period they may be consulted only for the purposes of subsequently checking their accuracy and the lawfulness of their inclusion. Afterwards they must be destroyed.

Article 20

1. The right of any person to have access to data relating to him which are included in the European Information System shall be exercised in accordance with the law of the Member State before which he invokes that right. If the national law so provides, the national supervisory authority provided for in Article 31 shall decide whether information shall be communicated to him and by what procedures. A Member State which has not made the report may communicate information concerning such data only if it has previously given the reporting Member State an opportunity to state its position.

2. Communication of information to the person concerned shall be refused if it may undermine the performance of the legal task specified in the report, or in order to protect the rights and freedoms of others. It shall be refused in any event during the period of reporting for the purposes of sighting and reporting specified in Article 8 of this Convention.

Article 21

Any person may have factually inaccurate data relating to him corrected or have unlawfully included data relating to him deleted.

Article 22

1. Any person may, in the territory of any Member State, bring before the courts or the authority competent under national law an action, in particular, to correct, delete or provide information or obtain compensation in connection with a report concerning him.

2. The Member States shall undertake amongst themselves to execute final decisions taken by the courts or authority referred to in paragraph 1, without prejudice to the provisions of Article 23.

Article 23

1. Each Member State shall be responsible, in accordance with its national law, for any damage caused to a person through the use of the national data file of the European Information System. This shall also be the case where the damage was caused by the reporting Member State, where the latter included legally or factually inaccurate data.

2. If the Member State against which a claim is advanced is not the reporting Member State, the latter shall be required to reimburse, on request, sums paid out as compensation, unless the data were used by the requested Member State in contravention of this Convention.

Article 24

1. With regard to the automatic processing of personal data which are transmitted pursuant to this Convention, each Member State shall, not later than the time of entry into force of this Convention, make the national arrangements necessary to achieve a level of protection of personal data at least equal to that resulting from the principles of the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to the Automatic Processing of Personal Data, taking into account Recommendation R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the use of personal data in the police sector.

2. The transmission of personal data provided for in this Convention may take place only where the arrangements for the protection of personal data provided for in paragraph 1 have entered into force in the territory of the Member States concerned by the transmission.

Article 25

1. With regard to the automatic processing of personal data transmitted pursuant to Article 30(5), the following provisions shall also apply:

(a) the data may be used by the recipient Member State solely for the purposes for which this Convention stipulates that such data may be transmitted; such data may be used for other purposes only with the prior authorization of the Member State which transmitted the data and in compliance with the law of the recipient Member State; such authorization may be granted insofar as the national law of the Member State transmitting the data permits;

(b) the data may be used only by the judicial authorities and by the departments and authorities carrying out a task or performing a function in connection with the aims mentioned in paragraph (a);

(c) the Member State transmitting the data shall be obliged to ensure the accuracy thereof; should it note, either on its own initiative or further to a request by the person concerned, that the data are inaccurate or should not have been transmitted or provided, the recipient Member State or Member States must be informed thereof forthwith; the latter shall be obliged to correct or destroy the data, or state that such data are inaccurate or should not have been transmitted;

(d) a Member State may not plead that another Member State had transmitted inaccurate data in order to avoid its liability under its national law vis-a-vis an injured party; if damages are awarded against the recipient Member State because of its use of inaccurate data transmitted, the Member State which transmitted the data shall refund in full to the recipient Member State the sums paid in damages;

(e) the transmission and receipt of personal data must be recorded both in the data file from which they originated and in the data file in which they are incorporated;

(f) the joint supervisory authority mentioned in Article 30 may, at the request of one of the Member States, issue an opinion on the difficulties of implementing and interpreting this Article.

Article 26

1. Where personal data are transmitted to another Member State pursuant to Article 30(5), the provisions of Articles 24 and 25 shall apply to the transmission of data from a non-automated data file and to their incorporation in another non-automated data file.

2. Where, in cases other than those governed by Article 25, or by paragraph 1 of this Article, personal data are transmitted to another Member State pursuant to Article 30(5), Article 25 shall, with the exclusion of subparagraph (e), apply. The following provisions shall also apply:

(a) a written record shall be kept of the transmission and receipt of personal data; this obligation shall not apply where there is no need, in order to use them, to record such data, particularly if they are not used or are used only very briefly;

(b) the recipient Member State shall guarantee, for the use of transmitted data, a level of protection at least equal to that stipulated under its national law for the use of data of a similar nature;

(c) access to data and the conditions under which it shall be granted shall be governed by the national law of the Member State to which the person concerned applies.

Article 27

1. The transmission of personal data for which Article 30 makes provision may not take place until the Member States involved in that transmission have instructed a national supervisory authority to monitor independently, in respect of the processing of personal data in data files, compliance with the provisions of Articles 25 and 26 and the provisions adopted in implementation thereof.

2. Insofar as a Member State has, in accordance with its national law, instructed a supervisory authority to monitor independently, in one or more areas, compliance with the provisions on the protection of personal data not incorporated in a data file, that Member State shall instruct the same authority to supervise compliance with the provisions of Articles 25 and 26 in the areas involved.

Article 28

1. Each of the Member States shall undertake, in respect of its national section of the European Information System, to take appropriate measures to :

(a) prevent any unauthorized person from having access to installations used for the processing of personal data (control of physical access to the system);

(b) prevent data from being read, copied, modified or removed by unauthorized persons (control of data media);

(c) prevent the unauthorized entry of data into the file and any unauthorized consultation, modification or deletion of personal data included in the file (control of data entry);

(d) prevent automated data processing systems from being used by unauthorized persons by means of data transmission equipment (control of use);

(e) guarantee that, with respect to the use of an automated data processing system, authorized persons have access only to data for which they are responsible (control of data access);

(f) guarantee that it is possible to check to which authorities personal data may be transmitted by data transmission equipment (control of data transmission);

(g) guarantee that it is possible to check and establish a posteriori what personal data have been entered into automated data processing systems, when and by whom (control of data entry);

(h) prevent the unauthorized reading, copying, modification or deletion of personal data during the transmission of data and the transport of data media (control of data transport).

2. Each Member State must take special measures to ensure the security of data when they are being transmitted to services located outside the territories of the Member States. Such measures must be communicated to the joint supervisory authority referred to in Article 32.

3. Each Member State may designate for the purpose of processing data in its national section of the European Information System only specially qualified persons who have been subjected to security checks.

4. The Member State responsible for the technical support function of the European Information System shall take the measures laid down in paragraphs 1 to 3 in respect of that function.

CHAPTER 4

Management and control of the European Information System

Article 29

1. An Executive Committee shall be set up, with responsibility for supervision of the general operation of this Convention. It shall consist of one representative of the Government of each Member State.

2. The Executive Committee shall be responsible for ensuring that the provisions of this Convention are properly implemented without prejudice to the powers of the authority referred to in Article 32(1).

3. The Executive Committee shall be chaired by the Member State holding the Presidency of the Council of the European Union.

4. The Commission of the European Communities may participate in the discussions of the Committee and the working parties referred to in paragraph 8.

5. The secretariat of the Committee and of the working parties referred to in paragraph 8 shall be provided by the General Secretariat of the Council of the European Union.

6. The Executive Committee shall take its decisions unanimously and shall draw up its own rules of procedure.

7. At the request of the representative of a Member State, the Committee may defer its decision for up to two months after establishing a common position on a proposal put to the Committee.

8. The Executive Committee may set up working parties comprising representatives of the administrations of the Member States in order to conduct preparations for decisions, or other work.

Article 30

1. Each of the Member States shall designate an authority which shall have central responsibility for its national section of the European Information System.

2. Each of the Member States shall make its reports to the technical support function via that authority.

3. The authority shall be responsible for the effective operation of the national section of the European Information System and shall take the measures necessary to ensure compliance with the provisions of this Convention.

4. Each of the Member States shall establish a SIRENE office ("Supplementary Information Required for National Entry"), which shall have central responsibility for the exchange of supplementary information in accordance with paragraph 5.

5. When a report is included or action to be taken is performed, the SIRENE offices shall exchange, in compliance with this Convention and their national law, such further information as is necessary to identify the persons or objects reported as well as other information and documentation relevant to the follow-up to action taken.

6. The Member States shall inform one another, via the depository, of the authorities referred to in paragraphs 1 and 4.

Article 31

1. Each Member State shall designate a national supervisory authority to be responsible, in compliance with national law, for carrying out independent supervision of the data file of the national section of the European Information System and for checking that the processing and utilization of data included in the European Information System do not infringe the rights of the person concerned. For this purpose the supervisory authority shall have access to the data file of the national section of the European Information System.

2. Any person shall have the right to ask national supervisory authorities to check the data concerning him which are included in the European Information System, and the use which is made of such data. That right shall be governed by the national law of the Member State to which the request is made. If the data have been included by another Member State, the check shall be carried out in close co-ordination with that Member State's supervisory authority.

Article 32

1. A joint supervisory authority shall be set up, with responsibility for supervising the technical support function of the European Information System. This authority shall consist of two representatives from each national supervisory authority. Each Member State shall have one vote.

   Supervision shall be exercised in accordance with the provisions of this Convention, of the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to the Automatic Processing of Personal Data, taking into account Recommendation R(87)15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the use of personal data in the police sector, and in accordance with the national law of the Member State responsible for the technical support function.

2. As regards the technical support function, the joint supervisory authority shall have the task of checking that the provisions of this Convention are properly implemented. For this purpose it shall have access to the technical support function.

3. The joint supervisory authority shall also be competent to examine any difficulties of application or interpretation which may arise during the operation of the European Information System, to study problems which may arise with regard to the exercise of independent supervision by the national supervisory authorities of the Member States or in the exercise of rights of access by individuals to the system, and to draw up harmonized proposals for the purpose of finding joint solutions to problems.

4. Reports drawn up by the joint supervisory authority shall be forwarded to the authorities to which the national supervisory authorities submit their reports.

CHAPTER 5

Financial arrangements

Article 33

1. The costs of setting up and using the technical support function referred to in Article 1(3), including the cost of means of communications between the national sections of the European Information System and the technical support function, shall be defrayed jointly by the Member States. Each Member State's share shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States for the year preceding the year in which the costs are incurred. For the purposes of this Article the expression "gross national product" means the gross national product determined in accordance with Council Directive 89/130/EEC of 13 February 1989 or any amending or replacing Community instrument.

2. The costs of setting up and using the national section of the European Information System shall be borne by each Member State individually.

FINAL ACT

(To be settled)

Joint declaration concerning Article 36(2):

"Member States will not deposit their instruments of ratification, acceptance or approval until it has been established by common accord that each of them is capable of satisfying all the technical and legal conditions for implementing the Convention and that the joint action still to be undertaken can be completed by the time the Convention enters into force, so that the European Information System can be operational for all Member States from that date."

Joint declaration concerning Article 37:

"All accessions will be preceded by consultations between the Member States which are parties to the Convention and the acceding State, during which the acceding State will be informed of the functioning of the European Information System and of the technical and legal conditions for implementing the Convention.

The acceding Member State will not deposit its instrument of accession until it has been established by common accord between the Member States parties to the Convention and the acceding Member State that the latter is capable of satisfying all the technical and legal conditions for implementing the Convention and that the joint action still to be undertaken can be completed by the time the Convention enters into force for the acceding Member State, so that the European Information System can also be operational for the acceding Member State from that date."

Joint declaration concerning Article 38:

"Whenever the External Frontiers Convention is amended, Member States will examine whether the amendments require amendments to this Convention. Where an amendment is necessary to this Convention, it will be made at the same time as the amendment to the External Frontiers Convention."