

Prüm Treaty: stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. Initiative Belgium, Bulgaria, Germany, Spain, France, Luxembourg, the Netherlands, Austria, Slovenia, Slovakia, Italy, Finland, Portugal, Romania and Sweden

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The European Parliament adopted a resolution drafted by Fausto **CORREIA** (PES, PT) and amended the initiative by 15 Member States on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. The amendments were made to ensure that the supplying of data is not made automatically but only when necessary and proportionate, and based on particular circumstances that give reasons to believe that criminal offences will be committed.

The main amendments were as follows:

- following the opinion of the Legal Affairs Committee, Parliament felt that the **legal basis** should be changed so that the proposed decision (whose legal basis is Article 34(2)(c) of the TEU) would become a **framework decision** based on Article 34(2)(b). This would mean that it would be binding upon the Member States and would entail approximation of their laws and regulations;
- Parliament introduced an amendment to ensure that data collected under this Decision will not be transferred or made available to a third country or to any international organisation. This article is particularly relevant taking into account recent transatlantic disagreements regarding data exchange in the frame of security and fight against terrorism (PNR, cooperation on CIA extraordinary renditions);
- By means of this Framework Decision, the Member States intend to step up cross-border cooperation in matters covered by Title VI of the EU Treaty, particularly the exchange of information between agencies responsible for the prevention and investigation of criminal offences as listed in Article 2 of Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States as well as in Articles 1 to 4 of Council Framework Decision 2002/475/JHA on combating terrorism;
- Parliament inserted **definitions** for several terms, including “criminal offences”, “terrorist offences” and “processing of personal data”. It defined "personal data" as any information relating to an identified or identifiable natural person ('data subject'); an "identifiable person" means a person who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical or physiological identity;
- a new article provided for Member States to make a clear distinction between the personal data of various categories of persons (e.g. those suspected of having committed or taken part in a criminal offence, those convicted of a criminal offence, those who have been the victim of a criminal offence, etc.);
- a new article states that the collection of **cellular material** for a particular individual who is suspected of having committed such a criminal offence, shall take place only on the basis of national law and only for a

specific purpose and shall meet the requirements of necessity and proportionality;

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

- a new Article states that Member States shall adopt suitable measures to ensure the full implementation of the provisions of Chapter 6 (General Provisions on Data Protection) and shall lay down effective, proportionate and **dissuasive sanctions** to be imposed in the event of infringement, notably of those provisions aimed at ensuring the confidentiality and security of personal data processing;

- the supplying of data in connection with major events with a cross-border dimension should be done only when necessary and proportionate and based on particular circumstances that give reason to believe that criminal offences will be committed;

- personal data may be processed only for the purposes specified. The data supplied shall be deleted without delay once the purposes specified have been achieved or can no longer be achieved, and in any event after no more than two years from the date of supply. Recorded data in general will be kept for three years, rather than two years;

- Parliament incorporated into the proposal two articles of the Prüm Convention (signed between Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria). These dealt with "**measures in the event of imminent danger**" and "**cooperation on request**", with the aim of ensuring more efficient police cooperation in border areas. In urgent situations, officers from one Member State may, without the prior consent of another Member State cross the border between the two States so that, within an area of the host Member State's territory close to the border and in compliance with the host Member State's national law, they may take any provisional measures necessary to avert an imminent danger to the physical integrity of individuals. In that case, officers will immediately inform the host Member State of their presence. It will be the host Member State who will assume responsibility for the measures taken by the officers crossing the border;

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

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