

ANNEX 3

Reasoned opinion

In its proposal for a legislative act, the Commission refers to a number of problems related to the transposal and application of Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters. The Commission's view is that the limited scope of the Framework Decision can lead to difficulties for the competent authorities of the Member States, and that the Framework Decision leaves Member States large room for manoeuvre in terms of implementation of its provisions. According to the Commission, these problems constitute justification for extending the scope of the proposed Directive compared with the Framework Decision, so that it also covers processing of personal data carried out at national level by the competent authorities of the Member States to prevent, investigate, detect or prosecute criminal acts or for the execution of criminal penalties.

The deadline for transposal of the aforementioned Framework Decision by the Member States was 27 November 2010. The Riksdag's view is that it is too early to draw any conclusions about the effectiveness of the Framework Decision. Furthermore, the Commission has not presented an independent impact assessment of the proposed directive; it is dealt with only in the impact assessment that refers to the reform package as a whole.

In summary, it is the view of the Riksdag that it is difficult to see what justifies extending the scope of EU rules on the protection of personal data in the field of crime fighting. Extended legislation at EU level which deals with the processing of personal data within the framework of investigations and trials in criminal cases also risks coming into conflict with the Member States' national criminal and procedural law.

Against this background, the Riksdag considers that the Commission's proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM(2012) 10) is in conflict with the subsidiarity principle in so far as it regulates the processing of personal data carried out by the competent authorities of the Member States, solely at national level, with the objective of preventing, investigating, detecting or prosecuting criminal acts, or the execution of criminal penalties.