EUROPEAN
COMMISSION

Brussels, 24.6.2020
COM(2020) 262 final

ANNEXES 1 to 2

ANNEXES

to the

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Way forward on aligning the former third pillar acquis with data protection rules

ANNEX I: Acts that fall within the scope of the review but do not require amendments

Acts that do not contain specific data protection rules and are therefore not "grandfathered", meaning that the LED already applies to them (7 acts):

1. Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States[1];
2. Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence[2];
3. Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol[3];
4. Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties[4];
5. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders[5];
6. Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions[6];
7. Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union[7].

Acts that contain a reference to Council Framework Decision 2008/977/JHA, which is to be construed as a reference to the LED as per Article 59(2) thereof, and do not contain any specific data protection rules (3 acts):

1. Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention[8];
2. Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings[9], and
3. Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order[10].

1 OJ L 190, 18.7.2002, p. 1–20.
2 OJ L 196, 2.8.2003, p. 45–55.
3 OJ L 27, 29.1.2005, p. 61–62.
4 OJ L 76, 22.3.2005, p. 16–30.
5 OJ L 328, 24.11.2006, p. 59–78.
6 OJ L 337, 16.12.2008, p. 102–122.
7 OJ L 327, 5.12.2008, p. 27–46.
8 OJ L 294, 11.11.2009, p. 20–40.
9 OJ L 328, 15.12.2009, p. 42–47.
10 OJ L 338, 21.12.2011, p. 2–18.

Acts where amendments are already under negotiation (2 acts):

1. Council Decision 2008/633/JHA of 23 June 2008 regulates access to VIS data for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences[11], which is subject to repeal under Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 767/2008, Regulation (EC) No 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repealing Council Decision 2008/633/JHA[12] ;
2. Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person[13]; it is subject to repeal under Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast)[14].

International agreements that bind exclusively Member States or Schengen States which are obliged to transpose the LED into their national orders, and where the processing of personal data by the competent authorities for purposes of law enforcement under such agreements is subject to national laws transposing the LED (3 acts):

1. Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (Naples II Convention)[15];
2. Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union[16];
3. Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 may 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto[17].

Mutual Legal Assistance Treaty between the EU and the U.S.:

1. Agreement on mutual legal assistance between the European Union and the United States of America[18].

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11 OJ L 218, 13.8.2008, p. 129–136.
12 COM(2018) 302 final.
13 OJ L 180, 29.6.2013, p. 31–59.
14 COM/2016/0272 final - 2016/0132 (COD).
15 OJ C 24, 23.1.1998, p. 2–22.
16 OJ C 197, 12.7.2000, p. 1–2.
17 OJ L 26, 29.1.2004, p. 3–9.
18 OJ L 181, 19.7.2003, p. 34–42.

ANNEX II: Acts that require amendments

1. Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams[19].
2. Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences[20];
3. Council Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union[21];
4. Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime obliges Member States to set up the Asset Recovery Office and provide for the framework for the exchange of data between the Member States' Asset Recovery Offices[22];
5. Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime[23] and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime[24];
6. Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes[25];
7. Agreement between the European Union and Japan on mutual legal assistance in criminal matters[26];
8. Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters[27];
9. Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences[28];
10. Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime[29].

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19 OJ L 162, 20.6.2002, p. 1–3.
20 OJ L 253, 29.9.2005, p. 22–24.
21 OJ L 386, 29.12.2006, p. 89–100.
22 OJ L 332, 18.12.2007, p. 103–105.
23 OJ L 210, 6.8.2008, p. 1–11.
24 OJ L 210, 6.8.2008, p. 12–72.
25 OJ L 323, 10.12.2009, p. 20–30.
26 OJ L 39, 12.2.2010, p. 20–35.
27 OJ L 130, 1.5.2014, p. 1–36.
28 OJ L 68, 13.3.2015, p. 9–25.
29 OJ L 119, 4.5.2016, p. 132–149.