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[1] Text with EEA relevance

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I

(Resolutions, recommendations and opinions)

RECOMMENDATIONS

EUROPEAN CENTRAL BANK

RECOMMENDATION OF THE EUROPEAN CENTRAL BANK

of 10 February 2012

to the Council of the European Union on the external auditors of the Bank of Greece

(ECB/2012/1)

(2012/C 48/01)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 27.1 thereof,

Whereas:

(1) The accounts of the European Central Bank (ECB) and national central banks are audited by independent external auditors recommended by the ECB's Governing Council and approved by the Council of the European Union.

(2) The mandate of the Bank of Greece's external auditors will end following the audit for the financial year 2011. It is therefore necessary to appoint external auditors from the financial year 2012.

(3) The Bank of Greece has selected KPMG Certified Auditors A.E. as its external auditors for the financial years 2012 to 2016,

HAS ADOPTED THIS RECOMMENDATION:

It is recommended that KPMG Certified Auditors A.E. should be appointed as the external auditors of the Bank of Greece for the financial years 2012 to 2016.

Done at Frankfurt am Main, 10 February 2012.

The President of the ECB

Mario DRAGHI

OPINIONS

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the Commission proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('IMI')

(2012/C 48/02)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular Articles 7 and 8 thereof,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1],

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [2],

Having regard to the request for an opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001,

HAS ADOPTED THE FOLLOWING OPINION:

1. INTRODUCTION

1.1. Consultation of the EDPS

1. On 29 August 2011, the Commission adopted a proposal for a Regulation ('the proposal' or 'the proposed Regulation') of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('IMI') [3]. The proposal was sent to the EDPS for consultation on the same day.

2. Before the adoption of the proposal, the EDPS was given the possibility to give informal comments on the proposal, and prior to that, on the Commission Communication 'Better governance of the Single Market through greater administrative cooperation: A strategy for expanding and developing the Internal Market Information System ("IMI")' ('the IMI Strategy Communication') [4] that preceded the proposal. Many of these comments have been taken into account in the proposal, and — as a result — the data protections safeguards in the proposal have been strengthened.

3. The EDPS welcomes the fact that the Commission formally consulted him and that a reference to this Opinion is included in the preamble of the proposal.

1.2. Objectives and scope of the proposal

4. IMI is an information technology tool that allows competent authorities in Member States to exchange information with each other when applying the internal market legislation. IMI allows national, regional and local authorities in EU Member States to communicate quickly and easily with their counterparts in other European countries. This also involves the processing of relevant personal data, including sensitive data.

5. IMI has initially been built as a communication tool for one-to-one exchanges under the Professional Qualification Directive [5] and the Services Directive [6]. IMI helps users to find the right authority to contact in another country and communicate with it using pre-translated sets of standard questions and answers [7].

[1] OJ L 281, 23.11.1995, p. 31.
[2] OJ L 8, 12.1.2001, p. 1.
[3] COM(2011) 522 final.
[4] COM(2011) 75.
[5] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).
[6] Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).
[7] To illustrate, a typical question containing sensitive data would be, for example: 'Does the attached document lawfully justify the absence of suspension or prohibition of the pursuit of the relevant professional activities for serious professional misconduct or criminal offence with regard to (the migrant professional)?'.

6. IMI, however, is meant to be a flexible, horizontal system that can support multiple areas of internal market legislation. It is envisaged that its use will be gradually expanded to support additional legislative areas in the future.

7. The functionalities of IMI are also planned to be expanded. In addition to one-to-one information exchanges, other functionalities are also foreseen, or already implemented, such as 'notification procedures, alert mechanisms, mutual assistance arrangements and problem solving' ([8]) as well as 'repositories of information for future reference by IMI actors' ([9]). Many, but not all, of these functionalities may also include the processing of personal data.

8. The proposal aims to provide a clear legal basis and a comprehensive data protection framework for IMI.

1.3 **Background of the proposal: a step-by-step approach to establish a comprehensive data protection framework for IMI**

9. During the spring of 2007, the Commission requested the Opinion of the Article 29 Data Protection Working Party ('WP29') to review the data protection implications of IMI. The WP29 issued its Opinion on 20 September 2007 ([10]). The Opinion recommended the Commission to provide a clearer legal basis and specific data protections safeguards for the exchange of data within IMI. The EDPS actively participated in the work of the subgroup dealing with IMI and supported the conclusions of the Opinion of the WP29.

10. Subsequently, the EDPS continued to provide further guidance to the Commission on how to ensure, step by step, a more comprehensive data protection framework for IMI ([11]). In the framework of this cooperation, and since the issue on 22 February 2008 of his Opinion on the implementation of IMI ([12]), the EDPS has been consistently advocating the need for a new legal instrument under the ordinary legislative procedure, in order to establish a more comprehensive data protection framework for IMI and to provide legal certainty. The proposal for such a legal instrument has now been put forward ([13]).

([8]) See recital 10.
([9]) See Article 13(2).
([10]) WP29 Opinion No 7/2007 on data protection issues related to the Internal Market Information System (IMI), WP140. Available at: http://ec.europa.eu/justice/policies/privacy/docs/wpdocs/2007/wp140_en.pdf
([11]) The key documents concerning this cooperation are available on the Commission's IMI website at: http://ec.europa.eu/internal_market/imi-net/data_protection_en.html as well as on the EDPS website at: http://www.edps.europa.eu
([12]) Opinion of the EDPS on the Commission Decision 2008/49/EC of 12 December 2007 concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data (OJ C 270, 25.10.2008, p. 1).
([13]) The WP29 also plans to comment on the proposal. The EDPS has been following these developments in the relevant WP29 subgroup and contributed comments.

2. **ANALYSIS OF THE PROPOSAL**

2.1. **Overall views of the EDPS on the proposal and on the key challenges regulating IMI**

11. The overall views of the EDPS on IMI are positive. The EDPS supports the aims of the Commission in establishing an electronic system for the exchange of information and regulating its data protection aspects. Such a streamlined system will not only enhance efficiency of cooperation, but may also help ensure consistent compliance with applicable data protection laws. It may do so by providing a clear framework on what information can be exchanged, with whom, and under what conditions.

12. The EDPS also welcomes the fact that the Commission proposes a horizontal legal instrument for IMI in the form of a Council and Parliament Regulation. He is pleased that the proposal comprehensively highlights the most relevant data protection issues for IMI. His comments must be read against this positive background.

13. Nevertheless, the EDPS cautions that establishment of a single centralised electronic system for multiple areas of administrative cooperation also creates risks. These include, most importantly, that more data might be shared, and more broadly than strictly necessary for the purposes of efficient cooperation, and that data, including potentially outdated and inaccurate data, might remain in the electronic system longer than necessary. The security of the information system accessible in 27 Member States is also a sensitive issue, as the whole system will be only as secure as the weakest link in the chain permits it to be.

Key challenges

14. With regard to the legal framework for IMI to be established in the proposed Regulation, the EDPS calls attention to two key challenges:

— the need to ensure consistency, while respecting diversity, and

— the need to balance flexibility and legal certainty.

15. These key challenges serve as important points of reference and determine, to a large part, the approach that the EDPS takes in this Opinion.

Consistency, while respecting diversity

16. First, IMI is a system that is used in 27 Member States. At the current state of harmonisation of European laws, there are considerable differences among national administrative procedures, as well as national data protection laws. IMI needs to be built in such a way that users in each of these

27 Member States would be able to comply with their national laws, including national data protection laws, when exchanging personal data via IMI. At the same time, the data subjects must also be reassured that their data will be consistently protected irrespective of transfer of data via IMI to another Member State. Consistency, while at the same time respecting diversity, is a key challenge for building both the technical and the legal infrastructure for IMI. Undue complexity and fragmentation should be avoided. The data processing operations within IMI must be transparent; responsibilities for making decisions regarding the design of the system, its day-day maintenance and use, and also of its supervision, must be clearly allocated.

Balancing flexibility and legal certainty

17. Second, unlike some other large-scale IT systems, such as the Schengen Information System, the Visa Information System, the Customs Information System, or Eurodac, which are all focused on cooperation in specific, clearly defined areas, IMI is a horizontal tool for information exchange, and can be used to facilitate information exchange in many different policy areas. It is also foreseen that the scope of IMI will gradually expand to additional policy areas and its functionalities may also change to include hitherto unspecified types of administrative cooperation. These distinguishing features of IMI make it more difficult to clearly define the functionalities of the system, and the data exchanges that may take place in the system. Therefore, it is also more challenging to clearly define the appropriate data protection safeguards.

18. The EDPS acknowledges that there is a need for flexibility and takes note of the Commission's desire to make the Regulation 'future-proof'. However, this should not lead to lack of clarity or legal certainty in terms of the functionalities of the system and the data protection safeguards that are to be implemented. For this reason, whenever possible, the proposal should be more specific and go beyond reiterating the main data protection principles set forth in Directive 95/46/EC and Regulation (EC) No 45/2001 ([14]).

2.2. **Scope of IMI and its foreseen expansion (Articles 3 and 4)**

2.2.1. *Introduction*

19. The EDPS welcomes the proposal's clear definition of the current scope of IMI, with Annex I listing the relevant Union acts on the basis of which information can be exchanged. These include cooperation under specific provisions of the Professional Qualifications Directive, the Services Directive and the Directive on the application of patients' rights in cross-border healthcare ([15]).

20. As the scope of IMI is expected to expand, potential targets for expansion are listed in Annex II. Items from Annex II can be moved to Annex I via a delegated act to be adopted by the Commission following an impact assessment ([16]).

21. The EDPS welcomes this technique as it (i) clearly delimits the scope of IMI and (ii) ensures transparency, while at the same time (iii) allowing flexibility in cases where IMI will be used for additional information exchanges in the future. It also ensures that no information exchange can be carried out through IMI without (i) having an appropriate legal basis in specific internal market legislation allowing or mandating information exchange ([17]), and (ii) including a reference to that legal basis in Annex I to the Regulation.

22. That said, uncertainties still exist regarding the scope of IMI, with regard to the policy areas where IMI may be expanded to, and with regard to the functionalities that are or may be included in IMI.

23. First, it cannot be excluded that the scope of IMI may be extended beyond the policy areas listed in Annex I and Annex II. This may happen if the use of IMI is provided for certain types of information exchanges not in a Commission delegated act, but in an act adopted by the Parliament and the Council in a case where this was not foreseen in Annex II ([18]).

([14]) In this respect, see also our comments in Section 2.2. regarding the foreseen expansion of IMI.

([15]) Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

([16]) The draft Regulation itself does not refer to an impact assessment. However, page 7 of the Explanatory Memorandum to the proposal explains that the Commission will be empowered to move items from Annex II to Annex I, by adopting a delegated act and 'following an assessment of technical feasibility, cost-efficiency, user-friendliness and overall impact of the system, as well as the result of a possible test phase'.

([17]) This is with the exception of SOLVIT (see Annex II, I(1)), where only 'soft law', a Commission Recommendation is available. From the data protection point of view, in the view of the EDPS, in the specific case of SOLVIT, the legal basis of the processing may be 'consent' of the data subjects.

([18]) This may happen upon initiative of the Commission, but it can also not be excluded that the idea to use IMI in a specific policy area may arise later in the legislative process, and may be proposed by the Parliament or by the Council. This has already happened in the past with regard to the Directive on patients' rights in cross-border healthcare. More clarity would be required for such a case with regard to the 'procedure' for expansion which appears to have been focusing only on the case of expansion via delegated acts (see provisions on impact assessment, delegated acts, updating of Annex I).

24. Second, while the extension of scope to new policy areas in some cases may require little or no change in the existing functionalities of the system ([19]), other extensions may require new and different functionalities, or important changes to existing functionalities:

— although the proposal refers to several existing or planned functionalities, these references are often not sufficiently clear, or sufficiently detailed. This applies, to varying degrees, to references to alerts, external actors, repositories, mutual assistance arrangements and problem solving ([20]). To illustrate, the word 'alert', which refers to a key existing functionality is only mentioned a single time, in recital 10,

— under the proposed Regulation it is possible to adopt new types of functionalities that are not mentioned in the proposal at all,

— IMI has thus far been described as an IT tool for information exchange: in other words, a communication tool (see e.g. Article 3 of the proposal). Some of the functionalities referred to in the proposal, including the 'information repository' function, however, appear to go beyond this. The proposed extension of retention periods to five years also suggests a move towards a 'database'. These developments would fundamentally change the character of IMI ([21]).

2.2.2. *Recommendations*

25. To address these uncertainties, the EDPS recommends a two-pronged approach. He proposes, first, that functionalities that are already foreseeable should be clarified and more specifically addressed, and second, that adequate procedural safeguards should be applied to ensure that data protection will also be carefully considered during the future development of IMI.

Clarification of functionalities already available or foreseeable (e.g. one-to-one exchanges, alerts, repositories, problem solving and external actors)

26. The EDPS recommends that the Regulation should be more specific with respect to functionalities where these are already known, as in the case of the information exchanges referred to in Annexes I and II.

27. For example, more specific and clear measures could be foreseen for the integration of SOLVIT ([22]) into IMI (provisions for 'external actors' and 'problem-solving') and for the directories of professionals and service providers (provisions for 'repositories').

28. Additional clarifications should also be made regarding 'alerts', which are already in use under the Services Directive and may also be introduced to additional policy areas. In particular, 'alert' as functionality should be clearly defined in Article 5 (along with other functionalities, such as one-to-one information exchanges and repositories). Access rights and retention periods for alerts should also be clarified ([23]).

Procedural safeguards (data protection impact assessment and consultation of data protection authorities)

29. If the intention is to keep the Regulation 'future-proof' in terms of additional functionalities that may be necessary in the longer term, and thus, to allow additional functionalities not yet defined in the Regulation, this should be accompanied by adequate procedural safeguards to ensure that appropriate provisions will be made to implement the necessary data protection safeguards before the roll-out of the new functionality. The same should apply to expansions into new policy areas where this has an impact on data protection.

30. The EDPS recommends a clear mechanism that ensures that before each extension of functionalities, or expansions into new policy areas, data protection concerns are carefully evaluated, and, if necessary, additional safeguards or technical measures will be implemented in the architecture of IMI. In particular:

— the impact assessment referred to on page 7 of the Explanatory Memorandum should be specifically required in the Regulation itself, and should also include a data protection impact assessment, which should specifically address what, if any, changes in the design of IMI are necessary to ensure that it continues to contain adequate data protection safeguards covering also the new policy areas and/or functionalities;

— the Regulation should specifically provide that the consultation of the EDPS and national data protection authorities is required before each expansion of IMI. This consultation can take place via the mechanism foreseen for coordinated supervision in Article 20.

([19]) For example, one-to-one information exchanges under the Professional Qualifications Directive and the Directive on patients' rights in cross-border healthcare follow essentially the same structure and can be accommodated using similar functionalities subject to similar data protection safeguards.

([20]) See recitals 2, 10, 12, 13, 15 and Articles 5(b), 5(i), 10(7) and 13(2).

([21]) Incidentally, if there is an intention to have IMI replace/complement existing file handling and archiving systems, and/or to use IMI as a database, this should be made clearer in Article 3.

([22]) See Annex II, I(1).

([23]) See Sections 2.4. and 2.5.5. below.

31. These procedural safeguards (data protection impact assessment and consultation) should apply to the expansion both via a Commission delegated act (moving an item from Annex II to Annex I) and via a Parliament and Council Regulation including an item that has not been listed in Annex II.

32. Finally, the EDPS recommends that the Regulation should clarify whether the scope of the delegated acts that the Commission will be empowered to adopt pursuant to Article 23 will include any other matters beyond moving items from Annex II to Annex I. If feasible, the Commission should be empowered in the Regulation to adopt specific implementing or delegated acts to further define any additional functionalities of the system, or address any data protection concerns that may arise in the future.

2.3. **Roles, competences and responsibilities (Articles 7-9)**

33. The EDPS welcomes the dedication of a full chapter (Chapter II) to clarify the functions and responsibilities of the different actors involved in IMI. The provisions could be further strengthened as follows.

34. Article 9 describes the responsibilities that derive from the Commission's role as a controller. The EDPS further recommends the inclusion of an additional provision referring to the Commission's role in ensuring that the system is designed applying the principles of 'privacy by design' as well as its coordinating role with respect to data protection issues.

35. The EDPS is pleased to see that the tasks of IMI coordinators listed in Article 7 now specifically include coordinating tasks relating to data protection, including acting as a contact person for the Commission. He recommends further clarifying that these coordinating tasks also include contacts with the national data protection authorities.

2.4. **Access rights (Article 10)**

36. Article 10 provides safeguards with regard to access rights. The EDPS welcomes the fact that following his comments these provisions have been significantly strengthened.

37. Considering the horizontal and expanding nature of IMI, it is important to ensure that the system should guarantee the application of 'Chinese walls' that confine the information processed in one policy area only to that policy area: IMI users should (i) only access information on a need-to-know basis and (ii) confined to a single policy area.

38. If it is unavoidable that an IMI user would be entitled to access information for several policy areas (which may be the case, for example, in some local government offices), at the minimum, the system should not allow the combination of information coming from different policy areas. Exceptions, if necessary, should be set forth in implementing legislation or a Union act, strictly observing the principle of purpose limitation.

39. These principles are now outlined in the text of the Regulation, but could be further strengthened and operationalised.

40. With regard to access rights by the Commission, the EDPS welcomes the fact that Articles 9(2), (4) and 10(6) of the proposal, taken together, specify that the Commission will have no access to the personal data exchanged among Member States, except in cases where the Commission is designated as a participant to an administrative cooperation procedure.

41. Access rights by external actors and access right to alerts should also be further specified ([24]). With respect to alerts, the EDPS recommends that the Regulation should provide that alerts should not, by default, be sent to all relevant competent authorities in all Member States, but only to those concerned, on a need-to-know basis. This does not exclude sending alerts to all Member States in specific cases or in specific policy areas, if all are concerned. Similarly, a case-by-case analysis is necessary to decide whether the Commission should have access to alerts.

2.5. **Retention of personal data (Articles 13 and 14)**

2.5.1. *Introduction*

42. Article 13 of the proposal extends the length of data storage within IMI from the current six months (to be counted from case closure) to five years, with the data being 'blocked' after 18 months. During the period of 'blockage', data are only accessible following a specific procedure for retrieval, which can only be initiated at the request of the data subject or in case the data are needed 'for purposes of proof of an information exchange by means of IMI'.

43. In effect, thus, data are stored in IMI during three distinct periods:

— from the moment of upload to the moment of case closure,

— from case closure for a period of 18 months ([25]),

— from the lapse of the period of 18 months, in a blocked form, for a further period of three years and six months (in other words, until the lapse of five years as of case closure).

([24]) See also Section 2.2.2.

([25]) Article 13(1) suggests that 18 months is a 'maximum' time limit, thus, a shorter period can also be established. This, however, would not have an effect on the total length of retention, which would last, in any event, until the end of five years as of case closure.

44. Beyond these general rules, Article 13(2) allows retention of data in a 'repository of information' as long as it is needed for this purpose, with the consent of the data subject or when 'this is necessary to comply with a Union act'. Further, Article 14 provides for a similar blocking mechanism for the retention of personal data of IMI users, for five years, as of the date when they cease to be IMI users.

45. There are no other specific provisions. Therefore, presumably, the general rules are intended to apply not only to one-to-one exchanges, but also to alerts, resolution of problems (as in SOLVIT ([26])) and to all other functionalities involving processing of personal data.

46. The EDPS has several concerns regarding the retention periods, in light of Article 6(1)(e) of Directive 95/46/EC and Article 4(1)(e) of Regulation (EC) No 45/2011, which both require that personal data must be kept no longer than is necessary for the purposes for which the data were collected or are further processed.

2.5.2. *From upload to case closure: the need for timely case closure*

47. With respect to the first period, from upload of information to case closure, the EDPS is concerned about the risk that some cases might never close, or will be closed only after a disproportionately long period of time. This may lead to some personal data remaining in the database longer than necessary, or even indefinitely.

48. The EDPS understands that the Commission has made progress, on the practical level, to reduce the backlog in IMI and there is a system in place for one-to-one exchanges to monitor timely case closures and to periodically remind those who are lagging behind. In addition, a new change in the functionalities of the system, following a 'privacy by design' approach allows, with the push of a single button, to accept a reply, and to also, at the same time, close the case. Previously this has required two separate steps and may have led to some of the dormant cases that remained in the system.

49. The EDPS welcomes these efforts made at the practical level. However, he recommends that the text of the Regulation itself should provide guarantees that cases will be closed in a timely manner in IMI and that dormant cases (cases without any recent activity) will be deleted from the database.

([26]) See Annex II, I(1).

2.5.3. *From case closure to 18 months: is extension of the 6-months period justified?*

50. The EDPS invites reconsidering whether there is an adequate justification for the extension of the current 6-months period to 18 months following case closure, and if so, whether this justification applies to one-to-one information exchanges only, or also to other types of functionalities. IMI has now been in existence for several years, and the practical experience accumulated in this regard should be taken advantage of.

51. If IMI remains a tool for information exchange (as opposed to a file handling system, database, or archiving system), and further provided that the competent authorities are provided with means to retrieve from the system the information they received (either electronically or on a paper form, but in any case in a way that they can use the retrieved information as evidence ([27])), there appears to be little need to keep the data in IMI after case closure at all.

52. In one-to-one exchanges of information the potential need to ask follow-up questions even after an answer has been accepted, and thus, a case has been closed, may perhaps justify a (reasonably short) period of retention following case closure. The current six-month period *prima facie* appears to be generous enough for this purpose.

2.5.4. *From 18 months to 5 years: 'blocked' data*

53. The EDPS considers that the Commission has also not provided sufficient justification for the necessity and proportionality of retention of 'blocked data' up to a period of five years.

54. The Explanatory Memorandum, on page 8, refers to the Court of Justice ruling in *Rijkeboer* ([28]). The EDPS recommends that the Commission should reconsider the implications of this case on data retention in IMI. In his view, *Rijkeboer* does not require IMI to be configured to retain data for five years after case closure.

55. The EDPS does not consider reference to the *Rijkeboer* judgment or to the rights of data subjects to have access to their data as a sufficient and adequate justification for retaining data in IMI for five years after case closure. Retention of merely 'log data' (strictly defined to exclude any content, among others, any attachments or sensitive data) may be a less intrusive option, which might deserve some further consideration. However, the EDPS, at this stage, is not convinced that even this would be either necessary or proportionate.

([27]) We understand that efforts have been made to ensure this at the practical level.

([28]) C-553/07 *Rijkeboer* [2009] ECR I-3889.

56. In addition, lack of clarity as to who can access the 'blocked data' and for what purposes is also problematic. Simply referring to use 'for purposes of proof of an information exchange' (as in Article 13(3)) is not sufficient. If the provision regarding 'blocking' is retained, in any event, it should be better specified who can ask for a proof of the information exchange and in what context. In addition to the data subject, would others be entitled to request access? If so, would these be solely the competent authorities, and solely in order to prove that a particular information exchange with a particular content took place (in case such an exchange is contested by the competent authorities who sent or received the message)? Are other possible uses 'for purposes of proof of an information exchange' foreseen ([29])?

2.5.5. *Alerts*

57. The EDPS recommends that a more clear distinction should be made between alerts and repositories of information. It is one thing to use an alert as a communication tool to alert competent authorities of a particular wrongdoing or suspicion, and quite another to store this alert in a database for an extended or even undefined period of time. Storing alert information would raise additional concerns and would require specific rules and additional data protection safeguards.

58. Therefore, the EDPS recommends that the Regulation should provide, as a default rule that (i) — unless otherwise specified in vertical legislation, and subject to adequate additional safeguards — a six-month retention period should apply to alerts and, importantly, that (ii) this period should be counted as of the time of sending the alert.

59. Alternatively, the EDPS recommends that detailed safeguards, with respect to alerts, would be specifically set forth in the proposed Regulation. The EDPS is ready to assist the Commission and the legislators with further advice in this respect, should this second approach be followed.

2.6. **Special categories of data (Article 15)**

60. The EDPS welcomes the distinction made between the personal data referred to in Article 8(1) of Directive 95/46/EC on one hand, and the personal data referred to in Article 8(5) on the other hand. He also welcomes that the Regulation clearly specifies that special categories of data may only be processed on the basis of a specific ground mentioned in Article 8 of Directive 95/46/EC.

61. In this regard, the understanding of the EDPS is that IMI will process a significant amount of sensitive data falling under Article 8(2) of Directive 95/46/EC. Indeed, IMI, from the very beginning, when it was first rolled out to support administrative cooperation under the Services and Professional Qualifications Directives, was designed to process such data, in particular, data relating to records of criminal and administrative infringements that may have an effect on a professional's or service provider's right to perform work/services in another Member State.

62. Additionally, a significant amount of sensitive data under Article 8(1) (mainly health-related data) will also likely be processed in IMI once IMI will expand to include a module for SOLVIT ([30]). Finally, it cannot be excluded that additional sensitive data may also be collected through IMI in the future, on an ad hoc or systematic basis.

2.7. **Security (Article 16 and recital 16)**

63. The EDPS is pleased to see that Article 16 specifically refers to the obligation of the Commission to follow its own internal rules adopted to comply with Article 22 of Regulation (EC) No 45/2001 and to adopt and keep up-to-date a security plan for IMI.

64. To further strengthen these provisions, the EDPS recommends that the Regulation requires a risk assessment and a review of the security plan before each expansion of IMI to a new policy area or before adding a new functionality with an impact on personal data ([31]).

65. In addition, the EDPS also notes that Article 16 and recital 16 refer only to the obligations of the Commission and the supervisory role of the EDPS. This reference may be misleading. While it is true that the Commission is the operator of the system, and as such, is responsible for a predominant part of the maintenance of the security in IMI, competent authorities also have obligations, which are, in turn, supervised by national data protection authorities. Therefore, Article 16 and recital 16 should also refer to the obligations on security applicable to the rest of the IMI actors pursuant to Directive 95/46/EC and to the supervisory powers of national data protection authorities.

2.8. **Information to data subjects and transparency (Article 17)**

2.8.1. *Information provided in Member States*

66. With regard to Article 17(1), the EDPS recommends more specific provisions in the Regulation to ensure that data subjects will be fully informed of the processing of their data in IMI. Considering that IMI is used by multiple competent authorities, including many small local government offices without sufficient resources, it is strongly recommended that notice provision be coordinated at the national level.

([29]) Although retention of personal data poses comparatively less risks to privacy, the EDPS nevertheless considers that retention of personal data of IMI users for a period of five years once they no longer have access to IMI has also not been sufficiently justified.

([30]) See Annex II, I(1).

([31]) Please also see Section 12 on recommendations regarding audits.

2.8.2. *Information provided by the Commission*

67. Article 17(2)(a) requires the Commission to provide a privacy notice regarding its own data processing activities, under Articles 10 and 11 of Regulation (EC) No 45/2001. In addition, Article 17(2)(b) requires the Commission to also provide information on 'the data protection aspects of administrative cooperation procedures in IMI as referred to in Article 12'. Finally, Article 17(2)(c) requires the Commission to provide information on 'exceptions to or limitations of data subjects' rights as referred to in Article 19'.

68. The EDPS is pleased to see these provisions that help contributing to transparency of the data processing operations in IMI. As noted in Section 2.1. above, in case of an IT system used in 27 different Member States, it is crucial to ensure consistency regarding the operation of the system, the data protection safeguards applied, and the information that is provided to the data subjects ([32]).

69. That said, the provisions of Article 17(2) should be further strengthened. The Commission, as the operator of the system, is best positioned to take a proactive role in providing a first 'layer' of data protection notice and other relevant information to data subjects on its multilingual website, also 'on behalf of' competent authorities, that is, covering the information required under Articles 10 or 11 of Directive 95/46/EC. It would then often be sufficient for notices provided by competent authorities in Member States to simply refer to the notice provided by the Commission, only complementing it as necessary to comply with any specific additional information specifically required under national law.

70. In addition, Article 17(2)(b) should clarify that information provided by the Commission will comprehensively cover all policy areas, all types of administrative cooperation procedures and all functionalities within IMI and will also specifically include the categories of data that may be processed. This should also include the publication of the question sets used in one-to-one cooperation on the IMI website as is currently done in practice.

2.9. **Rights of access, rectification and erasure (Article 18)**

71. The EDPS would like to refer again, as noted in Section 2.1 above, to the fact that it is crucial to ensure consistency regarding the operation of the system and the data protection safeguards applied. For this reason, the EDPS would further specify the provisions on the rights of access, correction and erasure.

72. Article 18 should specify whom data subjects should turn to with an access request. This should be clear with respect to access to data during the different time periods:

— prior to case closure,

— after case closure but before the lapse of the 18-month retention period,

— and finally, during the period of time while data are 'blocked'.

73. The Regulation should also require competent authorities to cooperate with respect to access requests as necessary. Correction and deletion should be carried out 'as soon as possible but within 60 days at the latest' rather than 'within 60 days'. Reference should also be made to the possibility for building a data protection module and the possibility of 'privacy by design' solutions for cooperation among authorities regarding access rights, as well as 'empowerment of data subjects', for example, by providing them direct access to their data, where relevant and feasible.

2.10. **Supervision (Article 20)**

74. In recent years, the model of 'coordinated supervision' has been developed. This model of supervision, as now operational in Eurodac and parts of the Customs Information System, has also been adopted for the Visa Information System (VIS) and the second generation Schengen Information System (SIS-II).

75. This model has three layers:

— supervision at national level is ensured by national data protection authorities,

— supervision at EU level is ensured by the EDPS,

— coordination is ensured by way of regular meetings and other coordinated activities supported by the EDPS acting as the secretariat of this coordination mechanism.

76. This model has proven to be successful and effective and should be envisaged in the future for other information systems.

77. The EDPS welcomes the fact that Article 20 of the proposal specifically provides for coordinated supervision among national data protection authorities and the EDPS following — in broad terms — the model established in the VIS and SIS II Regulations ([33]).

([32]) This approach to ensure consistency should, of course, take duly into account any national divergences when necessary and justified.

([33]) See Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4) and Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

78. The EDPS would strengthen the provisions on coordinated supervision at certain points and would for that purpose support similar provisions as those in place for example in the context of the Visa Information System (Articles 41-43 of the VIS Regulation), Schengen II (Articles 44-46 of the SIS-II Regulation) and envisaged for Eurodac ([34]). In particular, it would be helpful if the Regulation would:

— in Article 20(1) and (2) set out and divide more clearly the respective supervision tasks of national data protection authorities and the EDPS ([35]),

— in Article 20(3) specify that the national data protection authorities and the EDPS, each acting within the scope of their competences, 'shall cooperate actively' and 'shall ensure coordinated supervision of IMI' (rather than simply referring to coordinated supervision without mentioning active cooperation) ([36]), and

— specify, in more detail, what cooperation may include, for example, by requiring that the national data protection authorities and the EDPS 'each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of the IMI Regulation, study problems with the exercise of independent supervision or with the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights as necessary' ([37]).

79. This being said, the EDPS is conscious of the present smaller size, the different nature of the data processed, as well as the evolving nature of IMI. Therefore, he acknowledges that regarding the frequency of meetings and audits, more flexibility may be advisable. In short, the EDPS recommends that the Regulation should provide the necessary minimal rules to ensure effective cooperation, but not create unnecessary administrative burdens.

80. Article 20(3) of the proposal does not require regular meetings but simply provides that the EDPS may 'invite the National Supervisory Authorities to meet … when necessary'. The EDPS welcomes the fact that these provisions leave it up to the parties concerned to decide on the frequency and modalities of the meetings, and other procedural details regarding their cooperation. These can be agreed upon in the rules of procedures, which are already referred to in the proposal.

81. With regard to regular audits, it may also be more effective to leave it to the cooperating authorities to determine, in their rules of procedures, when, and with what frequency, such audits should be held. This may depend on a number of factors and may also change over time. Therefore, the EDPS supports the Commission's approach, which allows for more flexibility also in this regard.

2.11. **National use of IMI**

82. The EDPS welcomes the fact that the proposal provides a clear legal basis for the national use of IMI and that such use is subject to several conditions, including the fact that the national data protection authority must be consulted and that the use must be in accordance with national law.

2.12. **Information exchange with third countries (Article 22)**

83. The EDPS welcomes the requirements set in Article 22(1) for information exchanges, as well as the fact that Article 22(3) ensures the transparency of the expansion via publication in the Official Journal of an updated list of third countries using IMI (Article 22(3)).

84. The EDPS further recommends that the Commission should narrow the reference made to the derogations under Article 26 of Directive 95/46/EC to include only Article 26(2). In other words: competent authorities or other external actors in a third country that does not afford adequate protection should not be able to have direct access to IMI unless there are appropriate contractual clauses in place. These clauses should be negotiated at the EU level.

85. The EDPS emphasises that other derogations, such as 'transfer is necessary or legally required on important public interest grounds, or for the establishment, exercise or defence of legal claims', should not be used to justify data transfers to third countries using direct access to IMI ([38]).

2.13. **Accountability (Article 26)**

86. In line with the expected strengthening of arrangements for greater accountability during the review of the EU data protection framework ([39]), the EDPS recommends that the Regulation should establish a clear framework for adequate internal control mechanisms that ensures data protection compliance and provides evidence thereof, containing at least the elements noted below.

([34]) Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, 15.12.2000, p. 1), currently under revision. In this context, similar provisions are considered as in the VIS and SIS II Regulations.

([35]) See, for example, Articles 41 and 42 of the VIS Regulation.

([36]) See, for example, Article 43(1) of the VIS Regulation.

([37]) See, for example, Article 43(2) of the VIS Regulation.

([38]) A similar approach has been followed in Article 22(2) for the Commission as an IMI actor.

([39]) See Section 2.2.4. of the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — 'A comprehensive approach on personal data protection in the European Union', COM(2010) 609 final. See also Section 7 of the EDPS Opinion issued on this Commission Communication on 14 January 2011.

87. In this context, the EDPS welcomes the requirement in Article 26(2) of the Regulation that the Commission should report, every three years, to the EDPS on data protection aspects, including on security. It would be advisable if the Regulation would clarify that the EDPS, in turn, would be required to share the Commission's report with the national data protection authorities, in the framework of the coordinated supervision referred to in Article 20. It would also be helpful to clarify that the report should discuss, with respect to each policy area and each functionality, how the key data protection principles and concerns (e.g. information to data subjects, access rights, security) have been addressed in practice.

88. In addition, the Regulation should clarify that the framework for internal control mechanisms should also include privacy assessments (also including a security risk analysis), a data protection policy (including a security plan) adopted based on the results of these, as well as periodic reviews and auditing.

2.14. **Privacy by design**

89. The EDPS welcomes the reference in recital 6 of the Regulation to this principle ([40]). He recommends that beyond this reference, the Regulation should also introduce specific privacy by design safeguards such as:

— a data protection module to allow data subjects to more effectively exercise their rights ([41]),

— clear isolation of the different policy areas included in IMI ('Chinese walls') ([42]),

— specific technical solutions to limit search capabilities in directories, alert information and elsewhere, to ensure purpose limitation,

— specific measures to ensure that cases with no activity will be closed ([43]),

— adequate procedural safeguards in the context of future developments ([44]).

3. **CONCLUSIONS**

90. The overall views of the EDPS on IMI are positive. The EDPS supports the aims of the Commission in establishing an electronic system for the exchange of information and regulating its data protection aspects. The EDPS also welcomes the fact that the Commission proposes a horizontal legal instrument for IMI in the form of a Parliament and Council Regulation. He is pleased that the proposal comprehensively highlights the most relevant data protection issues for IMI.

91. With regard to the legal framework for IMI to be established in the proposed Regulation, the EDPS calls attention to two key challenges:

— the need to ensure consistency, while respecting diversity, and

— the need to balance flexibility and legal certainty.

92. Functionalities of IMI that are already foreseeable should be clarified and more specifically addressed.

93. Adequate procedural safeguards should be applied to ensure that data protection will be carefully considered during the future development of IMI. This should include an impact assessment and consultation of the EDPS and national data protection authorities before each expansion of IMI's scope to a new policy area and/or to new functionalities.

94. Access rights by external actors and access right to alerts should be further specified.

95. With regard to retention periods:

— the Regulation should provide guarantees that cases will be closed in a timely manner in IMI and that dormant cases (cases without any recent activity) will be deleted from the database,

— it should be reconsidered whether there is an adequate justification for the extension of the current 6-month period to 18 months following case closure,

— the Commission has not provided sufficient justification for the necessity and proportionality of retention of 'blocked data' up to a period of five years, and therefore, this proposal should be reconsidered,

— a more clear distinction should be made between alerts and repositories of information: the Regulation should provide, as a default rule that (i) — unless otherwise specified in vertical legislation, subject to adequate additional safeguards — a six-month retention period should apply to alerts and that (ii) this period should be counted as of the time of sending the alert.

96. The Regulation should require a risk assessment and a review of the security plan before each expansion of IMI to a new policy area or before adding a new functionality with an impact on personal data.

97. The provisions on information to data subjects and access rights should be strengthened and should encourage a more consistent approach.

([40]) Idem.
([41]) See Section 2.9. above.
([42]) See Section 2.4. above.
([43]) See Section 2.5.2. above.
([44]) See Section 2.2.2. above.

98. The EDPS would strengthen the provisions on coordinated supervision at certain points and would for that purpose support similar provisions as those in place for example in the context of the Visa Information System, Schengen II and envisaged for Eurodac. With regard to the frequency of meetings and audits, the EDPS supports the proposal in its flexible approach aimed to ensure that the Regulation provides the necessary minimal rules to ensure effective cooperation without creating unnecessary administrative burdens.

99. The Regulation should ensure that competent authorities or other external actors in a third country that does not afford adequate protection should not be able to have direct access to IMI unless there are appropriate contractual clauses in place. These clauses should be negotiated at the EU level.

100. The Regulation should establish a clear framework for adequate internal control mechanisms that ensures data protection compliance and provides evidence thereof, including privacy assessments (also including a security risk analysis), a data protection policy (including a security plan) adopted based on the results of these, as well as periodic reviews and auditing.

101. The Regulation should also introduce specific privacy by design safeguards.

Done at Brussels, 22 November 2011.

Giovanni BUTTARELLI

Assistant European Data Protection Supervisor

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Notice for the attention of the persons, entities and bodies to which restrictive measures provided for in Council Decision 2011/101/CFSP, as amended by Council Decision 2012/97/CFSP apply

(2012/C 48/03)

THE COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of the persons, entities and bodies that appear in Annex I to Council Decision 2011/101/CFSP ([1]), as amended by Council Decision 2012/97/CFSP ([2]),

The Council of the European Union has determined that the persons, entities and bodies that appear in the above-mentioned Annex should continue to be included in the list of persons, entities and bodies subject to restrictive measures provided for in Council Decision 2011/101/CFSP.

The attention of the persons, entities and bodies concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the Annex II to Regulation (EC) No 314/2004, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 7 of the Regulation).

The persons, entities and bodies concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the above-mentioned list should be reconsidered. Any such request should be sent to the following address:

Council of the European Union
General Secretariat
DG K Coordination Unit
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

The attention of the persons, entities and bodies concerned is also drawn to the possibility of challenging the Council's Decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, second paragraph, and Article 263, fourth and sixth paragraphs, of the Treaty on the Functioning of the European Union.

([1]) OJ L 42, 16.2.2011, p. 6.
([2]) OJ L 47, 18.2.2012, p. 50.

EUROPEAN COMMISSION

Euro exchange rates [1]

17 February 2012

(2012/C 48/04)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,3159	AUD	Australian dollar	1,2230
JPY	Japanese yen	104,39	CAD	Canadian dollar	1,3093
DKK	Danish krone	7,4334	HKD	Hong Kong dollar	10,2036
GBP	Pound sterling	0,83110	NZD	New Zealand dollar	1,5730
SEK	Swedish krona	8,8316	SGD	Singapore dollar	1,6541
CHF	Swiss franc	1,2083	KRW	South Korean won	1 480,16
ISK	Iceland króna		ZAR	South African rand	10,1882
NOK	Norwegian krone	7,4975	CNY	Chinese yuan renminbi	8,2864
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5780
CZK	Czech koruna	25,001	IDR	Indonesian rupiah	11 888,19
HUF	Hungarian forint	290,14	MYR	Malaysian ringgit	3,9951
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	56,143
LVL	Latvian lats	0,6988	RUB	Russian rouble	39,3750
PLN	Polish zloty	4,1816	THB	Thai baht	40,517
RON	Romanian leu	4,3545	BRL	Brazilian real	2,2550
TRY	Turkish lira	2,3094	MXN	Mexican peso	16,8317
			INR	Indian rupee	64,7950

[1] *Source*: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 17 October 2011 regarding a draft decision relating to Case COMP/39.605 — CRT Glass

Rapporteur: Netherlands

(2012/C 48/05)

1. The Advisory Committee agrees with the Commission that the anticompetitive behaviour covered by the draft decision constitutes an agreement and/or concerted practice between undertakings within the meaning of Article 101 of the TFEU and Article 53 of the EEA Agreement.

2. The Advisory Committee agrees with the Commission's assessment of the product and geographic scope of the agreement and/or concerted practice contained in the draft decision.

3. The Advisory Committee agrees with the Commission that the undertakings concerned by the draft decision have participated in a single and continuous infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement.

4. The Advisory Committee agrees with the Commission that the object of the agreement and/or concerted practice was to restrict competition within the meaning of Article 101 of the TFEU and Article 53 of the EEA Agreement.

5. The Advisory Committee agrees with the Commission that the agreement and/or concerted practice has been capable of appreciably affecting trade between the Member States of the EU and between other contracting parties to the EEA Agreement.

6. The Advisory Committee agrees with the Commission's assessment as regards the duration of the infringement.

7. The Advisory Committee agrees with the Commission's draft decision as regards the addressees.

8. The Advisory Committee agrees with the Commission that a fine should be imposed on the addressees of the draft decision.

9. The Advisory Committee agrees with the Commission on the application of the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003.

10. The Advisory Committee agrees with the Commission on the basic amounts of the fines.

11. The Advisory Committee agrees with the determination of the duration for the purpose of calculating the fines.

12. The Advisory Committee agrees with the Commission that there are no aggravating circumstances applicable in this case.

13. The Advisory Committee agrees with the Commission on the mitigating circumstances the Commission identifies for two of the addressees of the draft decision.

14. The Advisory Committee agrees with the Commission as regards the reduction of the fines based on the 2006 Leniency Notice.

15. The Advisory Committee agrees with the Commission as regards the reduction of the fines based on the 2008 Settlement Notice.

16. The Advisory Committee agrees with the Commission on the final amounts of the fines.

17. The Advisory Committee recommends the publication of its Opinion in the *Official Journal of the European Union*.

Final Report of the Hearing Officer [1]

COMP/39.605 — CRT Glass

(2012/C 48/06)

This settlement proceeding concerns a cartel between the four producers of glass for Cathode Ray Tubes (CRT): Asahi Glass Co., Ltd, Nippon Electric Glass Co., Ltd, Samsung Corning Precision Materials Co., Ltd. and Schott AG aimed at coordinating the prices for CRT glass. The cartel infringement covered the entire EEA and lasted from 23 February 1999 to 27 December 2004.

BACKGROUND

While gathering information on the CRT glass market, the Commission received an immunity application from Samsung Corning, which was conditionally granted on 10 February 2009. In March 2009, the Commission carried out unannounced inspections at the premises of Schott. In June 2009, Nippon Electric Glass applied for immunity or, alternatively, for leniency. In March 2010, Schott applied for leniency.

When initiating proceedings pursuant to Article 11(6) of Regulation (EC) No 1/2003 [2] on 29 June 2010, the Commission invited the four companies to indicate their interest to engage in settlement discussions [3]. All companies accepted the invitation.

THE SETTLEMENT PROCEDURE

The settlement discussions were organised in three main phases between July 2010 and July 2011 during which period three rounds of formal bilateral meetings took place between the Commission and each of the parties.

During these meetings, the parties were orally informed of the objections that the Commission envisaged to raise against them as well as evidence supporting those objections. Following the first meeting in July 2010, the parties were given access, at the Directorate-General for Competition's premises, to the relevant evidence, all oral statements and a list of all documents in the Commission's file as well as a copy of the evidence that had already been shown to them. Upon requests introduced by Asahi Glass, Nippon Electric Glass and Schott, and insofar as it was justified for the parties to clarify their positions regarding a time period or any other aspect of the cartel, all parties were granted access to additional documents listed in the case file. The parties were also provided with an estimation of the range of likely fines to be imposed by the Commission within the framework of the settlement procedure.

At the end of the third round of meetings, Asahi Glass, Nippon Electric Glass, Samsung Corning and Schott requested to settle [4] and acknowledged their respective liability for an infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement. Furthermore, the parties acknowledged that they are responsible for the behaviour of their subsidiaries which were involved in the cartel. They have also indicated the maximum amount of the fine that they were informed of by the Commission and which they would accept in the framework of a settlement procedure. In their settlement submissions, the parties confirmed: (i) that they had been sufficiently informed of the objections the Commission envisaged raising against them and that they had been given sufficient opportunity make their views known thereupon; (ii) that they did not envisage requesting access to file or to be heard in an oral hearing, subject to the condition that the Statement of Objections (SO) and the final Decision would reflect their settlement submissions; and (iii) that they agreed to receive the SO and the final Decision in English.

After adoption of the SO by the Commission on 29 July 2011, all parties confirmed in their reply that the SO corresponded to the content of their settlement submissions. The Commission could therefore proceed directly to a decision pursuant to Articles 7 and 13 of Regulation (EC) No 1/2003.

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[1] Pursuant to Article 15 (Articles 15 and 16) of Commission Decision (2001/462/EC, ECSC) of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings (OJ L 162, 19.6.2001, p. 21).

[2] Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

[3] Commission Regulation (EC) No 622/2008 amending Regulation (EC) No 773/2004 as regards the conduct of settlement procedures in cartel cases (OJ L 171, 1.7.2008, p. 3), and Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (OJ C 167, 2.7.2008, p. 1).

[4] Article 10a(2) of Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

THE DRAFT DECISION

The draft Decision retains the objections raised in the SO. It relates thus only to objections in respect of which the parties have been afforded the opportunity to make known their views.

Furthermore, taking into account that the parties have not addressed any issues concerning access to files or their rights of defence to me or to the member of the Hearing Office attending the settlement meetings, I consider that the right to be heard of all participants to the proceedings has been respected in this case.

Brussels, 18 October 2011.

Michael ALBERS

Summary of Commission Decision

of 19 October 2011

relating to a proceeding under Article 101 of the Treaty [1] and Article 53 of the EEA Agreement

(Case COMP/39.605 — CRT Glass)

(notified under document C(2011) 7436 final)

(Only the English text is authentic)

(Text with EEA relevance)

(2012/C 48/07)

On 19 October 2011, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 [2], the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

(1) The Decision relates to a single and continuous infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement in the sector of glass for Cathode Ray Tubes (CRT Glass) and is addressed to four undertakings: (i) Samsung Corning Precision Materials Co., Ltd.; (ii) Nippon Electric Glass Co., Ltd.; (iii) Schott AG; and (iv) Asahi Glass Co., Ltd.

2. CASE DESCRIPTION

2.1. Procedure

(2) Following the immunity application of SCP [3], the Commission carried out unannounced inspections in March 2009 at the premises of Schott [4]. Requests for information were sent by the Commission to the main CRT Glass producers. NEG [5] and Schott applied for a reduction of fines.

(3) Proceedings were initiated in this case on 29 June 2010. Settlement discussions took place between 13 July 2010 and 1 July 2011. Subsequently, the cartel members submitted to the Commission their formal request to settle pursuant to Article 10a(2) of Regulation (EC) No 773/2004. On 29 July 2011, the Commission adopted a Statement of Objections and the parties all confirmed that its content reflected their submissions and they remained committed to follow the settlement procedure. The Advisory Committee on restrictive practices and dominant positions issued a favourable opinion on 17 October 2011 and the Commission adopted the Decision on 19 October 2011.

2.2. Addressees and duration of the infringement

(4) The following undertakings infringed Article 101 of the Treaty and Article 53 of the EEA Agreement by participating, during the periods indicated below, in anti-competitive activities with respect to the supply of CRT Glass in the EEA:

(a) Samsung Corning Precision Materials Co., Ltd. from 23 February 1999 to 27 December 2004;

(b) Nippon Electric Glass Co., Ltd. from 23 February 1999 to 27 December 2004;

(c) Schott AG from 23 February 1999 to 10 May 2004;

(d) Asahi Glass Co., Ltd. from 2 March 1999 to 4 October 2004.

2.3. Summary of the infringement

(5) The Decision concerns a single and continuous infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement aiming at restricting price competition in the CRT Glass sector in the EEA.

(6) Parties to the infringement coordinated the CRT Glass activities in the EEA by engaging in anticompetitive activities which qualify as direct and indirect price co-ordination. At bilateral and trilateral cartel meetings, they coordinated prices for CRT Glass by using a variety of means including coordination of CRT Glass prices for specific customers and also occasionally setting target prices for certain CRT Glass types. The parties established

[1] With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union (the Treaty). The two sets of provisions are, in substance, identical. References to Articles 101 and 102 of the Treaty should be understood as references to Articles 81 and 82, respectively, of the EC Treaty where appropriate.

[2] OJ L 1, 4.1.2003, p. 1.

[3] Samsung Corning Precision Materials Co., Ltd. and its relevant subsidiaries.

[4] Schott AG and its relevant subsidiaries.

[5] Nippon Electric Glass Co., Ltd. and its relevant subsidiaries.

at the bilateral and trilateral meetings a high degree of transparency with respect to the past, present and future situation of their respective market positions in terms of price evolution, demand of major customers, their respective supply shares for major customers, ongoing output and capacity developments. Furthermore, all parties supplemented their price coordination activities by exchanging through their marketing staff on an ad hoc basis confidential and sensitive market information (such as EEA sales, stock levels, customer developments, raw material costs and estimates of the demand and sales).

(7) Overall, the cartel lasted from 23 February 1999 until 27 December 2004. However, as from mid-July 2001 to December 2002, the cartel went through a period of limited activity with significantly fewer instances of anti-competitive contacts, which were moreover in most instances limited to less sensitive commercial information. Therefore, this period is considered as a period of limited cartel activity.

2.4. **Remedies**

(8) The Decision applies the 2006 Guidelines on Fines [1]. With the exception of SCP, the Decision imposes fines on all companies listed under point (4) above.

2.4.1. *Basic amount of the fine*

(9) The basic amount of fine is set at 16 % of the undertakings' sales of CRT Glass to customers in the EEA.

(10) The basic amount is multiplied by the number of years of participation in the infringement in order to take fully into account the duration of the participation for each undertaking in the infringement individually.

(11) The duration of the undertakings' involvement in the alleged infringement is for AGC [2] 3 years and 11 months, for NEG and SCP 4 years and 5 months and for Schott 3 years and 10 months. The period of limited activity (as explained above in point (7)) is not taken into account for purposes of calculating the fines.

2.4.2. *Adjustments to the basic amount*

2.4.2.1. Aggravating circumstances

(12) There are no aggravating circumstances in this case.

2.4.2.2. Mitigating circumstances

(13) Due to mitigating circumstances, the fines for two undertakings are reduced.

(14) AGC and Schott receive a reduction of the fine, as these companies were involved in the cartel only to a limited extent respectively in the early and later period of the cartel. Schott does not qualify for a reduction of the fine under the Leniency Notice. However, the fine imposed on Schott is reduced in view of Schott's effective cooperation outside the scope of the Leniency Notice and beyond its legal obligation to do so.

2.4.2.3. Specific increase for deterrence

(15) In this case, there is no need to increase the fine for achieving a sufficiently deterrent effect.

2.4.3. *Application of the 10 % turnover limit*

(16) It is not required to adjust the amounts in the light of the undertakings' turnover in this case.

2.4.4. *Application of the 2006 Leniency Notice*

(17) SCP is granted immunity from fines and NEG is granted a reduction of fine of 50 %.

2.4.5. *Application of the Settlement Notice*

(18) As a result of the application of the Settlement Notice, the amount of the fine to be imposed on NEG, Schott and AGC is reduced by 10 %.

3. **FINES IMPOSED BY THE DECISION**

(19) For the single and continuous infringement dealt with in this Decision, the following fines are imposed:

(a) on Samsung Corning Precision Materials Co., Ltd.: EUR 0;

(b) on Nippon Electric Glass Co., Ltd.: EUR 43 200 000;

(c) on Schott AG: EUR 40 401 000;

(d) on Asahi Glass Co., Ltd.: EUR 45 135 000.

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[1] OJ C 210, 1.9.2006, p. 2.
[2] Asahi Glass Co., Ltd.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6499 — FCC/Mitsui Renewable Energy/FCC Energia)

Candidate case for simplified procedure

(Text with EEA relevance)

(2012/C 48/08)

1. On 10 February 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]) by which Mitsui Renewable Energy Europe Limited ('MRRE', UK), belonging to the Mitsui group, and Fomento de Construcciones y Contratas, SA ('FCC', Spain) indirectly acquire within the meaning of Article 3(1)(b) of the Merger Regulation indirect joint control over a newly created full-function joint venture, FCC Energia, SA ('FCCE', Spain), by way of a purchase of shares.

2. The business activities of the undertakings concerned are:

— for the Mitsui group: a global group active in a wide variety of businesses worldwide, ranging from product sales, worldwide logistics and financing to the development of major international infrastructures,

— for MRRE: active in the generation of renewable energy,

— for FCC: active mainly in environmental services and water management, construction of large infrastructures, cement production, and renewable energy production,

— for FCCE: active in the generation and wholesale supply of electricity from renewable energies.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ([2]) it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

([1]) OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').
([2]) OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6499 — FCC/Mitsui Renewable Energy/FCC Energia, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Prior notification of a concentration

(Case COMP/M.6468 — Forfarmers/Hendrix)

(Text with EEA relevance)

(2012/C 48/09)

1. On 10 February 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which the undertaking Forfarmers Group B.V ('Forfarmers', the Netherlands) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the Hendrix business ('Hendrix') currently owned by Nutreco Nederland B.V, by way of purchase of shares and assets. This business comprises (i) the issued share capital in Hendrix UTD B.V (the Netherlands), Hedimix B.V (the Netherlands), Hendrix UTD GmbH (Germany) and Hendrix Illesch GmbH (Germany) and their respective subsidiaries, (ii) all assets and liabilities of Nutreco Feed Belgium N.V. (Belgium) and Hendrix N.V. (Belgium) and (iii) certain intellectual property rights.

2. The business activities of the undertakings concerned are:

— for Forfarmers: produces and supplies compound feed, broiler breeders and other agricultural commodities. It is also active in the supply of raw material and provides miscellaneous agriculture services,

— for Hendrix: is active in the production and sale of compound feed and broiler breeders. It also provides miscellaneous agriculture services.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope the EC Merger Regulation. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6468 — Forfarmers/Hendrix, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

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[1] OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

OTHER ACTS

EUROPEAN COMMISSION

Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2012/C 48/10)

This publication confers the right to object to the application pursuant to Article 7 of Council Regulation (EC) No 510/2006 ([1]). Statements of objection must reach the Commission within six months from the date of this publication.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

'KRANJSKA KLOBASA'

EC No: SI-PGI-0005-0764-24.03.2009

PGI (X) PDO ( )

1. **Name:**

'Kranjska klobasa'

2. **Member State or Third Country:**

Slovenia

3. **Description of the agricultural product or foodstuff:**

3.1. *Type of product*:

Class 1.2. Meat products (cooked, salted, smoked, etc.)

3.2. *Description of product to which the name in (1) applies:*

'Kranjska klobasa' is a pasteurised semi-durable sausage which is produced from coarsely minced pork of categories I and II (leg, shoulder, neck) and pork fat (back fat). The filling for 'Kranjska klobasa' is salted by adding nitrite salt, seasoned with garlic and pepper and then stuffed into a pig's small intestine, the ends of which are closed and skewered by a wooden dowel to make a pair of sausages with their ends joined together. The sausage undergoes hot smoking and pasteurisation.

It is eaten warm after brief warming in hot water, when it acquires its organoleptic characteristics and its excellent gastronomic qualities. The sausage has a reddish-brown surface and a mildly smoky smell; the meat inside is pinkish-red in colour and the fat is creamy white and unmelted; the texture is taut, crisp and succulent and the aroma is strong and typical of salted, specifically seasoned and smoked pork.

The chemical composition of the unheated sausage is as follows:

— total proteins: min. 17 %,

— fat: max. 29 %.

([1]) OJ L 93, 31.3.2006, p. 12.

3.3. *Raw materials:*

The raw materials are pork meat and fat.

3.4. *Feed:*

—

3.5. *Specific steps in production that must take place in the identified geographical area:*

Selection of the meat and fat

'Kranjska klobasa' is produced from good-quality cuts of pork of category I or II (leg, shoulder, neck) and back fat. The meat is fresh and chilled (0 °C to 7 °C) or frozen (T < – 18 °C) and properly defrosted. The back fat is skinless, chilled (0 °C to 7 °C) or frozen.

Mincing of the meat and fat

The meat is broken up by a 12 mm mincer.

The fat is cut up into pieces of a size of 8-10 mm.

Preparing the filling

The broken-up meat and fat is mixed in proportions of 75-80 % minced meat and up to 20-25 % of hard fat.

Up to 5 % of water is added to the overall filling weight (in the form of crushed ice).

The filling is seasoned with up to 0,3 % milled black pepper and up to 0,3 % dried garlic or a proportional amount depending on the type of garlic used, and 1,8 % to 2,2 % of nitrite salt is added.

Mixing the filling

The filling containing all these ingredients is mixed manually or mechanically until it becomes homogeneous and well-bound.

Filling the casings

The filling is stuffed mechanically or manually into a pig's small intestine with a diameter of 32-34 mm. The filling must be stuffed compactly into the casings.

The ends are formed and closed by skewering the intestine (not the filling) in such a way that the ends of the sausages are joined together and a pair of sausages weighing 200-250 g is formed.

Sausage skewers are made of wood; they are 2,5-3 mm thick and 3-6 cm long and are broken off or cut.

Drying of sausages

Before the sausages undergo heat treatment, their surface must be dried in order to ensure rapid and even penetration of the smoke.

The drying process takes place in a special room or in a smoking chamber at a temperature of 50-55 °C.

The process of salting and stabilising the filling takes place during the drying process.

Heat treatment with hot smoking

The sausages are hung on a rack with the skewer pointing upwards. Heat treatment lasts for at least two hours, during which time the temperature gradually increases until a core temperature of 70 +/– 2 °C is reached. Smoking forms part of the heat treatment and lasts 20-30 minutes. Only beech is used in the smoking process. The sausage must have a moderately intense reddish-brown colour; a sausage whose colour is excessively dark, tending towards blackish-brown, or excessively light ('anaemic') or greyish is not acceptable.

Once the heat treatment, including smoking, has been completed, the sausages are cooled with cold air or by spraying them with cold water.

Process monitoring and labelling

After cooling (before storage) the sausages are examined and their external appearance is assessed (colour, relief, skewer).

Conservation — storage of sausages

The sausages are kept at a temperature of no more than 8 °C.

They may be marketed packed or unpacked.

If unpacked (individual) sausages are marketed, each pair must be labelled.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

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3.7. *Specific rules concerning labelling:*

Each 'Kranjska klobasa' must be labelled in the same way:

— each product (pair) must bear a uniform self-adhesive band,

— each packaged product must bear a label.

The uniform labelling of 'Kranjska klobasa' includes:

— the 'Kranjska klobasa' logo,

— the producer's logo,

— the corresponding EU and national quality symbol.

All producers that have obtained a certificate for the production of 'Kranjska klobasa' must label products with the 'Kranjska klobasa' logo, irrespective of whether they are members of GIZ 'Kranjska klobasa' (the Kranjska klobasa Commercial Interest Association).

4. **Concise definition of the geographical area:**

The geographical area for the production of 'Kranjska klobasa' comprises the area within Slovenia which lies between the Alps and the Adriatic Sea, which is delimited in the west by the border with Italy, to the north by the border with Austria and to the south by the border with Croatia, and which opens up to the east towards the Pannonian Basin, stretching as far as the border with Hungary.

Under the German Empire, and subsequently the Austro-Hungarian Empire, the region of Kranjska was the only completely Slovenian region, which is why the term 'Kranjec' (Carniolian) used to be used as another name for 'Slovenian' and is still used today in everyday language to designate part of the population of Slovenia. Numerous other word combinations and designations containing the adjective 'kranjski, kranjska' are also still used today in Slovenia.

The name 'Kranjska' comes from the Slovenian word 'krajina', which meant 'country' (first recorded in 973 as the popular name 'Creina' for 'Carniola'). The Slovenian form 'Kranjska' ('Krain' and 'Krainburg' in German) predominated after the 13th century. From 1002, Kranjska was an autonomous margravate (border province) with its own margraves. Administratively, Kranjska was part of the Holy Roman

Empire. In the 14th century, most of present-day Slovenia belonged to the Habsburgs. Slovenian territory was divided amongst the following lands: Kranjska (Carniola), Trst (Trieste), Istra (Istria), Goriška (Gorizia), Koroška (Carinthia) and Štajerska (Styria). Following the break-up of the Austro-Hungarian Empire in 1918, Kranjska ceased to exist as a separate entity. Slovenia is a relatively new state, having become independent only in 1991 when it broke away from the Socialist Federal Republic of Yugoslavia. The present-day Republic of Slovenia is therefore the geographical successor of the former land of Kranjska, as it includes the whole of what used to be Kranjska.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

The definition of the geographical area is directly linked to the history of 'Kranjska klobasa'.

The natural conditions for food production, as well as the climate, have been a key factor in the development of the characteristic culinary culture, with agriculture being geared mainly towards subsistence farming. On very rugged terrain comprising mountains, valleys, basins and plains, the inhabitants have managed to preserve arable areas which have been set aside for growing feed for pigs. Pig-farming has gone hand in hand with the production of pork and pork products. Accounts of the production of pork and pork products, including sausages, date back a very long time, as shown by the excellent portrayals on medieval frescos and in certain written documents in the archives (for example the 17th-century note written in the Slovenian language by the guardian of Vrbovec castle to the lord of the land). However, all these accounts talk of pork, pork products and sausages. One of the typical products was a semi-durable sausage which, owing to the skill and know-how of the people of its region of origin and because of its specific identifying features (taste), came to be known as 'Kranjska klobasa' in the early 19th century, during the Austro-Hungarian period.

5.2. *Specificity of the product:*

A key factor distinguishing 'Kranjska klobasa', as it is found in Slovenia, from other similar sausages is that the traditional recipe of the Slovenian author Felicita Kalinšek (Slovenska kuharica, 1912) has been adhered to and used, adjusted only to accommodate modern technological food safety requirements (use of nitrite salt and pasteurisation). Another distinguishing characteristic of 'Kranjska klobasa' is the filling made from top-quality cuts of salted, coarsely minced pork meat and fat, seasoned with pepper and garlic and mildly hot-smoked. Only sea salt is used. The filling is stuffed into a pig's small intestine, which is shaped to form ends; the intestine is then skewered with a wooden dowel so that the ends are joined together and a pair of sausages is formed. A further characteristic of 'Kranjska klobasa' is the wooden skewers that are 2,5-3 mm thick, 3-6 cm long and are broken off or cut.

'Kranjska klobasa' does not contain any technical auxiliaries, e.g. meat paste, or other additives, e.g. polyphosphates, that are present in other varieties of sausage. The filling is stuffed only into casings made from pigs' small intestines, and the sausages are skewered in pairs with a wooden dowel. Steaming and hot-smoking (the sausage is a pasteurised product) give the surface its characteristic moderately intense reddish-brown colour. Lastly, 'Kranjska klobasa' also differs from other sausages in the ways in which it is consumed, or is recommended to be consumed, so as to achieve the best combination of flavours. Before serving, 'Kranjska klobasa' is simply warmed up in hot water rather than boiled, thus acquiring a very specific, somewhat coarse though succulent and crisp texture, with a pale pinkish-red colour when cut and a specific aroma of salted pork accompanied by an aroma of garlic, pepper and smoke.

Only beech is used in the smoking process.

5.3. *Causal link between the geographical area and a specific quality, the reputation or other characteristic of the product:*

The reputation of 'Kranjska klobasa' dates back to the multinational Austro-Hungarian Empire. 'Kranjska klobasa' is definitely one of the most original and internationally renowned Slovenian meat products, as shown by the number of 'hits' on the Internet, where 'Kranjska klobasa' is mentioned as an original Slovenian product in the majority of cases. Recent specialised literature ('Meat products handbook', Gerhard Feiner, CRC Press, 2006; http://en.wikipedia.org/wiki/Kransky) also mentions 'Kranjska klobasa' as being a typical unfermented sausage from Slovenia.

The properties of 'Kranjska klobasa' are the result of the skills and know-how of the people who lived in what is now Slovenia when it was the Austro-Hungarian crown land of Kranjska (Carniola). Its quality was also determined by the use of top-quality cuts of meat and the consistent use of sea salt, which in the former Kranjska was a permanent, even strategic, competitor for rock salt (J. Bogataj, 'The Food and Cooking of Slovenia', Annes Publishing, London, 2008).

The oldest instructions for the production of 'Kranjska klobasa' (also under that name) can be found in two cookery books, namely 'Süddeutsche Küche' by Katharina Prato (1896) and the sixth edition of 'Slovenska kuharica' by Felicita Kalinšek (1912). While Katharina Prato cannot really be said to provide instructions for the production of 'Kranjska klobasa', her reference is probably one of the oldest written references to this type of sausage (1896). Felicita Kalinšek, in her book 'Slovenska kuharica' (1912), provided instructions on how to produce 'Kranjska klobasa'.

There is a series of accounts in Slovenia, especially oral accounts, which talk of 'Kranjska klobasa', its areas of production and its reputation among the other regional types of sausage. There are numerous folk accounts claiming to state the real place of origin of 'Kranjska klobasa' or the place where it was supposedly first produced. Mention is frequently made of the village of Trzin, which is located between Ljubljana and Kamnik, where numerous butchers are said to have been plying their trade since the 19th century, supplying the market with 'Kranjska klobasa', which could be found as far away as Vienna. According to certain oral sources, this sausage took its name from the town of Kranj, while other oral sources state that it was produced in all major towns and market towns in the territory of the former land of Kranjska. There is also the picturesque tale of Emperor Franz Joseph who, while travelling by carriage from Vienna to Trieste, stopped in the famous Marinšek coaching inn on the main road in the village of Naklo pri Kranju. He wished to have something to eat and asked the inn-keeper what was available. 'We only have ordinary house sausages, nothing else', he replied to the Emperor. The Emperor ordered a sausage and, when he tried it, exclaimed enthusiastically: 'But this is no ordinary sausage, it is Carniolan sausage!'

A culinary feature of Slovenian regions is that 'Kranjska klobasa' is produced and sold in all regions, which shows that it is part of the heritage of the whole of Slovenian territory. The reputation of 'Kranjska klobasa' can also be seen in the typical Slovenian speciality of 'Kranjska klobasa with sauerkraut'.

The reputation of 'Kranjska klobasa' has also spread across frontiers, as shown by the translations of the name into the various languages of the former Austro-Hungarian Empire (J. de Moor and N. de Rooj/ed., 'European Cookery, Tradition & Innovation', Utrecht 2004).

A Kranjska Klobasa Festival has been held in Slovenia since 2003, with a national competition to find the best 'Kranjska klobasa'.

Reference to publication of the specification:

http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/Varna_hrana/zascita/KranjskaKlobasa_spec.pdf

Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2012/C 48/11)

This publication confers the right to object to the application pursuant to Article 7 of Council Regulation (EC) No 510/2006 ([1]). Statements of objection must reach the Commission within six months from the date of this publication.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

'平谷大桃' (PINGGU DA TAO)

EC No: CN-PDO-0005-0628-16.07.2007

PGI ( ) PDO (X)

1. **Name:**

'平谷大桃' (Pinggu Da Tao)

2. **Member State or Third Country:**

China

3. **Description of the agricultural product or foodstuff:**

3.1. *Type of product:*

Class 1.6. Fruit, vegetables and cereals fresh or processed

3.2. *Description of product to which the name in (1) applies:*

This peach is known as an edible juicy fruit that belongs to a species of *Prunus*, the subfamily *Prunoideae* of the family *Rosaceae*. It is grown in the shallow hills and rolling countryside of the Yanshan Mountains in the Pinggu District of Beijing, which are rich in sunlight and heat, and spread with sandy or loamy soils. The unique natural conditions give rise to the special qualities of 'Pinggu Da Tao', characterised by its 'big fruit size, bright colour, plenty of juice, rich flavour, moderate saccharinity and a good acid and sweet balance'. 'Pinggu Da Tao' has 10 cultivated varieties, as shown in the following table. Qingfeng is the only medium-size variety in the table; a single Qingfeng fruit weighs ≥ 150 g; a single fruit of the other nine large-size varieties weighs ≥ 275 g.

The physico-chemical indexes of the 10 different varieties of 'Pinggu Da Tao' are set out below:

Variety	Index	
	Soluble solids (20 °C), (%)	Total acid (measured by malic acid), (%)
Dajiubao	≥ 12,00	≤ 0,20
Qingfeng (Peking No 26)	≥ 11,50	≤ 0,42
Jingyan (Peking No 24)	≥ 12,00	≤ 0,20
Yanhong (Green-making No 9)	≥ 12,50	≤ 0,18
August Crispy (Peking No 33)	≥ 11,00	≤ 0,20

([1]) OJ L 93, 31.3.2006, p. 12.

Variety	Index	
	Soluble solids (20 °C), (%)	Total acid (measured by malic acid), (%)
Yanfeng No 1	≥ 12,00	≤ 0,20
Luwangxian	≥ 11,50	≤ 0,28
Huayu	≥ 12,00	≤ 0,20
Big Red Peach	≥ 12,00	≤ 0,20
Century 21st	≥ 12,00	≤ 0,18

3.3. *Raw materials:*

—

3.4. *Feed (for products of animal origin only):*

—

3.5. *Specific steps in production that must take place in the identified geographical area:*

The following must take place in the identified geographical area: orchard selection and planning, planting, soil, fertiliser and irrigation management, shaping and pruning, flower and fruit management, harvesting, post-harvest treatment and storage.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

Packing: the packing process is carried out only by companies who are authorised to use the 'Pinggu Da Tao' GI labels, under the supervision of competent quality inspection bodies.

1. Packing materials: the outer packaging consists of corrugated cardboard boxes which should be firm and strong enough for structural use. They should keep the contents dry, free from mildew, worm, pollution and odour.

2. Packing requirements: fruit in the packaging box are stored in an orderly way. The different layers are separated by cardboard inserts inside the box.

Shipping

During transportation, peach fruits should come in batches and be placed in an orderly manner so as to protect against pressure; the containers should be kept clean with a good air flow, and there should be no exposure to sunshine or rainfall; measures should also be taken to protect the fruit from frost or high temperatures.

Peach fruits should be handled carefully when unloaded; cold-chain transportation is recommended. The transportation vehicle should be kept clean, and free from toxic or hazardous materials and goods.

Storage

1. Prior to storage, the fruit must be treated using a pre-cooling procedure, in which the temperature is set at 4 °C.

2. Storage temperature is 0-3 °C.

3. The relative humidity of the storage environment is set within a range of 85-90 %.

4. If the storage house allows a controlled atmosphere (CA), the atmospheric conditions should be kept at 1 % O_2 and 5 % CO_2.

5. The storage room should be odourless. The fruit should be kept away from toxic or hazardous materials and goods; no toxic or hazardous preservatives or materials are allowed.

3.7. *Specific rules concerning labelling:*

The packing marks for the same shipment shall be of a uniform format and content.

Apart from the company's registered trademark, the name of the product with geographical indication protection in China — 'Pinggu Da Tao' — should also be printed on the fruit packaging and in a distinctly visible area on the exterior surface of the packing box, together with the special GI mark and quality traceability code. In addition, information such as the variety, grade (specification), and net weight, country of origin and producer of the product should also be printed on the fruit packaging. The wordings should be legible and not easy to remove. The markings on the outer package must conform to the actual product inside the box.

4. **Concise definition of the geographical area:**

The geographic area for 'Pinggu Da Tao' consists of 16 townships and villages currently under the administration of Pinggu District, Beijing; they are: Pinggu, Jinhaihu, Yukou, Machangying, Mafang, Donggaocun, Xiagezhuang, Shandongzhuang, Wangxinzhuang, Nandulehe, Zhengluoying, Dahuashan, Liujiadian, Daxingzhuang, Huangsongyu and Xiong'erzhai County.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

Pinggu District is situated at latitude 40° 02′-40° 22′ north and longitude 116° 55′-117° 24′ east. It is a small basin featuring shallow and rolling foothills on the southern slope of the Yanshan Mountains. It is surrounded by mountains on the east, south and north sides, leaving a plain valley in the centre. Green mountains spread across the county. The Ju and Ru rivers flow across the region.

The soil type is primarily sandy or loamy, soft and well-ventilated, and rich in potassium. The area has an independent water system which can provide water of superb quality. The local climate belongs to the warm temperate continental monsoon climate, characterised by wide differences of diurnal temperature and long hours of sunshine. The monthly temperature difference is large in spring, reaching about 6,8-8,7 °C, and in the autumn it is about 6,9-8,9 °C. The mean annual frost-free period is 191 days. The region enjoys abundant sunshine with a mean number of hours of annual sunshine time amounting to 2 555,3 hours, and the mean daily sunshine exposure rate is 58 %.

5.2. *Specificity of the product:*

1. Big fruit size: big fruit size is one of the most important characteristics of 'Pinggu Da Tao'. The average weight of a single 'Pinggu Da Tao' fruit is 20 % more than the weight of a corresponding variety, because of the unique fruit tree varieties, climate and natural environment. A single fruit of the medium size variety weights ≥ 150 g and a single fruit of the large size variety weights ≥ 275 g.

2. Bright colour: colour is one of the most important features of the peach's appearance and commercial value. The skin of the 'Pinggu Da Tao' fruit is clean, with a bright colour and high degree of staining.

3. Rich flavour and taste: 'Pinggu Da Tao' has a rich scent, a balanced sweet and sour flavour, delicate flesh and plenty of juice. The reasonable balance of content and the ratio between soluble solids and total acid gives the 'Pinggu Da Tao' its excellent sensory quality.

5.3. *Causal link between the geographical area and a specific quality, the reputation or other characteristic of the product:*

The unique natural conditions of Pinggu — namely soil, water system, diurnal temperature difference, sunshine, and the highly standardised management level — contribute to the characteristics and the quality of the Pinggu peach. The distinctive natural conditions are demonstrated by the following features:

1. Natural conditions

1. Climate factor

The cultivated area of 'Pinggu Da Tao' is located in the warm southern zone of a piedmont. The cultivated area has adequate sunshine and there is a big difference in temperature between day and night, which is good for effective staining and accumulation of carbohydrates. The region enjoys an annual mean radiation of 5,103 joules per square metre, with a mean sunshine ratio of 58 %.

2. Soil factor

The cultivated area of 'Pinggu Da Tao' is formed by the alluvial banks of the Ju and Ru rivers. The earth is composed of sandy soil and light loam. Good permeability of the soil satisfies the high oxygen consumption of peach tree root systems and keeps the root system in an active state. This ensures the sweetness and flavour of 'Pinggu Da Tao'.

3. Water factor

Pinggu is situated in a mountainous hydro-geological basin, possessing an independent underwater system with water of superb quality and abundant quantity. There is no trespassing on the river, so the surface water is pollution free. The trees are irrigated mainly by good quality underground water that reaches the level of Grade one drinking water, and is even close to that of natural mineral water. Through rational irrigation, water requirements are largely satisfied during germination period, the period of full bloom and fruit development, thus ensuring a good size, colour and output of fruit.

2. Historic origins

There is a long history of peach cultivation in Pinggu. Records have been found dating back to as early as the Ming Dynasty. Liu Ai, the county magistrate of Pinggu in the Longqin period of the Ming Dynasty, wrote a poem entitled 'The Ancient Eight Sceneries of Pinggu', in which the Pinggu peach flower is highly praised as follows: 'Half way to the hilltop, the snow remains unmelted throughout the year. The peach blossoms in March, however, are yet to form their delicate buds. When the sky is clear, look calmly into the horizon, the moon, bright like jade, is hovering under the clouds.' Emperor Qianlong of the Qin Dynasty also wrote a poem describing the peach blossoms in Pinggu: '… when the willow waves like a scene of light smoke, and the peach showers in the rain …'.

3. Human dimensions

There is a long history of peach cultivation in Pinggu. Records were found in works that date back to as early as in the Ming Dynasty. Following a long-term production practice, a whole set of planting management techniques for 'Pinggu Da Tao' were implemented, such as the adoption of a Y-shaped formation and natural open centre shaping (good for ventilation and light penetration). As regards fruit management, artificial flower and fruit thinning techniques, as well as fruit bagging techniques, are adopted to ensure an even fruit size, stable output and good staining.

Reference to publication of the specification:

(Article 5(7) of Regulation (EC) No 510/2006)

Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2012/C 48/12)

This publication confers the right to object to the amendment application pursuant to Article 7 of Council Regulation (EC) No 510/2006 [1]. Statements of objections must reach the Commission within six months from the date of this publication.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

'KRAŠKA PANCETA'

EC No: SI-PGI-0005-0833-13.10.2010

PGI (X) PDO ( )

1. **Name:**

'Kraška panceta'

2. **Member State or Third Country:**

Slovenia

3. **Description of the agricultural product or foodstuff:**

3.1. *Type of product:*

Class 1.2. Meat products (cooked, salted, smoked, etc.)

3.2. *Description of product to which the name in (1) applies:*

'Kraška panceta' is a traditional dried meat product with a characteristic rectangular shape. The minimum weight of the final product is 2,2 kg.

'Kraška panceta' is produced from lean bacon. It is prepared for drying with the skin and without ribs. The dry salting procedure using only sea salt and the drying and maturing without heat treatment contribute to the characteristic organoleptic properties of the thin slices. The lean part of the panceta is dry and firm and remains appropriately elastic under pressure. The rib locations are quite visible. The skin is hard and smooth and is removed just before consumption. As they mature, the lean sections of the panceta acquire a characteristic pink colour. The fat is creamy white in colour. A slice is made up predominantly of lean meat with thin strata of fat running through it. The organoleptic properties particularly include the external appearance of a finely cut slice, which must be tender in texture. The lean meat and the fat must be firmly connected. The slice must have a full, harmonic aroma and a sweet, non-salty flavour.

Salt content is no more than 6 %, the degree of drying attained must be at least 33 %, aw must be no more than 0,92, protein content must be at least 23 % and fat content must be at least 36 %.

3.3. *Raw materials (for processed products only):*

Bacon from fleshy breeds of pig is selected for the production of 'Kraška panceta'. The bacon cut comprises part of the chest section with nine to 10 apparent rib locations. The fleshy part of the flank is also included in the bacon. Typical for 'Kraška panceta' is a standard rectangular bacon cut measuring 45 to 50 cm in length and 18 to 20 cm in width. The minimum weight of a fresh bacon cut is 4 kg. For drying, the bacon is prepared with the skin and without the ribs, with the sides cut level, and the lean meat and skin must be unblemished. The soft fat on the inside is removed.

[1] OJ L 93, 31.3.2006, p. 12.

3.4. *Feed (for products of animal origin only):*

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3.5. *Specific steps in production that must take place in the identified geographical area:*

— The temperature of the fresh bacon must lie between + 1 °C and + 4 °C, as measured just before salting;

— Check of the lean-meat content of the bacon, the quality of dressing and the dimensions of the cut (18-20 cm × 45-50 cm);

— Exclusion of poorly dressed bacon: the skin must be smooth and without bristles, nicks, bruises or haematomas;

— Identification with the serial number and date of salting (day, month and year);

— Manual salting, by rubbing coarse sea salt into the rib locations. The quantity of salt is adapted to the weight of the individual bacon. Pepper and fresh garlic are added, sugar may be added;

— Storage of salted bacons on shelves or pallets;

— Salting at a temperature of between 1 and 6 °C for a duration of five to seven days;

— Cold phase: temperature of between 1 and 6 °C for one to three weeks;

— Drying at a temperature of between 14 and 22 °C for a period of two to seven days; mild cold smoking for one day is permitted;

— Drying/maturing at a temperature of between 10 and 18 °C, with a total production time of at least 10 weeks, an aw value less than 0,92, salt content less than 6 %, drying of at least 33 %, and a weight of the final product of over 2,2 kg;

— Organoleptic testing of a random selection of 'Kraška panceta';

— Identification by branding the skin of appropriate products;

— Matured products are kept in dark premises at a temperature of between 8 and 10 °C.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

'Kraška panceta' with a protected geographical indication (PGI) is sold in the form of whole or half pieces, branded on the skin on the back part with the 'Kraška panceta' logo. To improve availability to buyers (delicatessen sales), the panceta may be cut into smaller pieces of a uniform size. To preserve its characteristic organoleptic properties, the characteristic red colour of the lean meat and the creamy white colour of the bacon fat, detailed technological supervision of the process of cutting and packaging 'Kraška panceta' is of paramount importance. Contact with air, making the meat subject to oxidation processes, can significantly impair the quality of the bacon. For that reason, 'Kraška panceta' may be cut and commercially packaged only in facilities registered for the production of 'Kraška panceta'. Thanks to these, the product can be packaged immediately, oxidation caused by exposure to air or inappropriate temperatures can be prevented and the desired necessary microbiological safety of the product can be ensured. This system ensures ongoing supervision, full traceability and preservation of the typical properties of 'Kraška panceta' that are of the utmost importance for authenticity and consumer confidence.

3.7. *Specific rules concerning labelling:*

All producers that have been awarded certificates of conformity with the production specification are entitled to mark their products with the 'Kraška panceta' name and logo. The logo consists of a stylised image of a bacon with the inscription 'Kraška panceta'. The producer's registration number is placed next to the logo. The use of the logo is compulsory for all forms of panceta that are marketed. Whole pieces of panceta also have the identification mark branded on the skin.

'Kraška panceta' must also be identified with the words 'protected geographical indication' and the national quality symbol.

4. **Concise definition of the geographical area:**

The production area for 'Kraška panceta' is delimited by a line running from Kostanjevica na Krasu to Opatje selo, from there to the border between Slovenia and Italy and along that border to the Lipica border crossing, from there along the road to the settlement of Lokev, then along the road to Divača, from there in a straight line to the village of Vrabče and on to Štjak, Selo, Krtinovica, Kobdilj, and from there in a straight line through Mali Dol to Škrbina towards Lipa and Temnica and back to Kostanjevica na Krasu. All the above-mentioned villages form part of the geographical area.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

The Karst (Kras) is one of the largest landscape areas in Slovenia. It is an undulating limestone plateau with a typical Karst terrain (valleys, sinkholes, side-valleys, chasms and underground caves). Limestone soil is characteristic of the Karst; on this substratum has formed the famous red soil of the Karst region, often known as 'terra rossa'. There is little soil on the surface, which is mainly rocky, even though grasses, bushes or thin forest do grow in some places.

The proximity of the sea is the predominant influence on the climate in the Karst region. The mild Mediterranean climate encounters cold continental air. Temperature swings are common in the Karst region, where there is an influx of cold continental air into the Mediterranean area in the form of the Karst bora wind. The proximity of the sea means that, in the midst of winter, there is often a sharp rise in the temperature after days of icy bora winds. Whenever snow falls, it soon melts. The proximity of the sea has a significant effect in the summer, when hot clear weather predominates. The diversity of the Karst plateau and the immediate vicinity of the sea mean that there is always a wind or breeze and the relative humidity is comparatively low in the geographical area.

The natural conditions of the geographical area offer favourable microclimatic conditions for drying meat, which local people have exploited since time immemorial. They find the right combination of temperature and humidity using different rooms in the thick-walled Karst houses. Farmers transfer pršut (hams), panceta (fatty bacon), vratovina (pork neck), sausages and other products from one room to another in the constant search for the right combination of humidity and temperature for the individual technological stages of the maturing process. Thus, over time, technical skills and practical knowledge have evolved with experience and have become permanently established amongst local people.

5.2. *Specificity of the product:*

The specificity of 'Kraška panceta' lies in the rectangular cut which comprises part of the chest section with nine to 10 apparent rib locations and part of the flank. Such a cut provides the right ratio between lean meat and bacon. The bacon has a high proportion of meat to fat. Another specific characteristic is that only the dry salting procedure involving sea salt has traditionally been used. The drying/maturing process, which involves no heat treatment and takes place at temperatures under 18 °C, means that there is no deterioration of proteins due to heat and that the firmness of the fat tissue is preserved.

Combined with meticulous monitoring of the drying/maturing process, these procedures confer a characteristic quality, for which the 'Kraška panceta' is highly valued by consumers and which has made it a commercially successful product.

5.3. *Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI):*

The geographical indication 'Kraška panceta' is based on the tradition of production and its reputation.

In the Karst region, the mild Mediterranean climate encounters cold continental air. The diverse formation of the Karst plateau and the immediate vicinity of the sea mean that there is always a wind or breeze, promoting a comparatively low level of relative humidity. The favourable natural drying conditions and market demand have prompted local people, when producing pieces of bacon, to meet that demand.

There is an extremely long tradition of curing bacon, as was recorded back in 1689. Over time, technical skills have evolved with experience, have become permanently established amongst local people and have been handed down from one generation to the next. Thanks to their work, the people of the Karst region have contributed towards producing the standard recognisable shape and organoleptic properties of 'Kraška panceta'.

Unlike other regions in Slovenia, the Karst people always use exclusively dry salting and a moderate quantity of salt when producing 'Kraška panceta'. In other areas of Slovenia brine is usually used, or a combination of dry and wet salting. The dry salting process and the relatively long period of maturing at low temperatures have a significant impact on the characteristic organoleptic characteristics of 'Kraška panceta'. Thanks to its maturity and characteristic smell and taste, 'Kraška panceta' is a gastronomic speciality, which, together with the Karst prosciutto (Kraški pršut), has become a standard appetiser on ceremonial occasions.

A new era in the production of 'Kraška panceta' dawned in 1977, when producers began operating production units equipped with special technology.

There is testimony to the reputation of 'Kraška panceta' in various works of literature, brochures, leaflets, etc. Back in 1978 'Kraška panceta' was presented in the leaflet of one of the producers. Dr Stanislav Renčelj presented 'Kraška panceta' in the books 'Suhe mesnine narodne posebnosti' (Dried meat products — national specialities) (1991), 'Kraška kuhinja' (Karst cuisine) (1999), 'Suhe mesnine na Slovenskem' (Slovenian dried meat products) (2008) and 'Okusi Krasa' (Flavours of the Karst) (2009). 'Kraška panceta' was presented as a Slovenian gastronomic speciality in the book 'Okusiti Slovenijo' (Taste Slovenia) by Dr Janez Bogataj (2007). It was also presented in several promotional publications, such as the trilingual publication 'Do odličnosti za dober okus, Slovenija (1998)' (Rise to Excellence for the Gourmet, Slovenia, Dem Exzellenten Genuß Entgegen, Slowenien), in 'Edamus, Bibamus, Gaudeamus' (Interreg III project, 2006), 'Kras in Kraške posebnosti' (Karst and Karst specialities) (Phare programme), 'Pomlad Kraških dobrot' (The blossoming of Karst delicacies) (Karst pilot project, 2001), 'Dobrote Krasa in Brkinov' (Delicacies of the Karst and Brkini regions) (Municipality of Sežana, 2010), etc.

The producers of 'Kraška panceta' take part in the International Agricultural and Food Fair in Gornja Radgona, at which 'Kraška panceta' has been awarded high distinctions and prizes over the past 10 years.

Reference to publication of the specification:

(Article 5(7) of Regulation (EC) No 510/2006)

http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/Varna_hrana/junij2010/Spec_Kraska_panceta.pdf

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