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To:	Delegations
No. prev. doc.:	14872/23
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2009/917/JHA, as regards its alignment with Union rules on the protection of personal data – 4-column table

Delegations will find in the Annex a four-column table concerning the above legislative proposal, which contains:

- the Commission proposal of 11 May 2023,
- amendments adopted by the European Parliament on 20 November 2023, and
- the mandate approved by the Permanent Representative Committee on 31 October 2023.

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Council Decision 2009/917/JHA, as regards its alignment with Union rules on the protection of
personal data
2023/0143(COD)**

	Commission Proposal	EP Mandate	Council Mandate ST 14872/23	Draft Agreement
Formula				
1	2023/0143 (COD)	2023/0143 (COD)	2023/0143 (COD)	
Proposal Title				
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2009/917/JHA, as regards its alignment with Union rules on the protection of personal data	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2009/917/JHA, as regards its alignment with Union rules on the protection of personal data	Proposal for a REGULATION (EU) 2023/... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of... amending Council Decision 2009/917/JHA, as regards its alignment with Union rules on the protection of personal data	
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	

	Commission Proposal	EP Mandate	Council Mandate ST 14872/23	Draft Agreement
	EUROPEAN UNION,	EUROPEAN UNION,	EUROPEAN UNION,	
Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) thereof,	
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4				
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Formula				
8	Whereas:	Whereas:	Whereas:	

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Recital 1				
9	<p>(1) Directive (EU) 2016/680 of the European Parliament and of the Council¹ provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to, public security. That Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.</p> <p>1. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of</p>	<p>(1) Directive (EU) 2016/680 of the European Parliament and of the Council¹ provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of threats to, public security. That Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.</p> <p>1. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of</p>	<p>(1) Directive (EU) 2016/680 of the European Parliament and of the Council¹ provides for harmonised rules for the protection and the free movement of personal data processed for the purposes of the prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties, including the safeguarding against, and the prevention of, threats to, public security. That Directive requires the Commission to review relevant other acts of Union law in order to assess the need to align them with that Directive and to make, where necessary, the proposals to amend those acts in order to ensure a consistent approach to the protection of personal data falling within the scope of that Directive.</p> <p>1. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of</p>	

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	criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).	criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).	criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).	
Recital 2				
10	(2) Council Decision 2009/917/JHA ¹ on the use of information technology for customs purposes establishes the Customs Information System (CIS) to assist in preventing, investigating and prosecuting serious contraventions of national laws by making information available more rapidly and increase the effectiveness of the customs administrations. In order to ensure a consistent approach to the protection of personal data in the Union, that Decision should be amended to align it with Directive (EU) 2016/680. In particular, the personal data protection rules should respect the principle of purpose specification, be limited to specified categories of data subjects and categories of personal data, respect data security requirements, include additional protection for special categories of	(2) Council Decision 2009/917/JHA ¹ on the use of information technology for customs purposes establishes the Customs Information System (CIS) to assist in preventing, investigating and prosecuting serious contraventions of national laws by making information available more rapidly and increase the effectiveness of the customs administrations. In order to ensure a consistent approach to the protection of personal data in the Union, that Decision should be amended to align it with Directive (EU) 2016/680. In particular, the personal data protection rules should respect the principle of purpose specification <u>limitation</u> , be limited to specified categories of data subjects and categories of personal data, respect data security requirements, include additional protection for special categories of	(2) Council Decision 2009/917/JHA ¹ on the use of information technology for customs purposes establishes the Customs Information System (CIS), the purpose of which is to assist in preventing, investigating and prosecuting serious contraventions of national laws by making information available more rapidly and thereby to increase the effectiveness of the customs administrations of the Member States. The CIS consists of a central database facility which stores. In order to ensure a consistent approach to the protection of personal data, such as names and forenames, addresses, numbers of identity papers related to commodities, means of transport, businesses or persons, and detained, seized or confiscated items and cash. The central database is managed by	

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	<p>personal data and respect the conditions for subsequent processing. Moreover, provision should be made for the coordinated supervision model as introduced by Article 62 of Regulation (EU) 2018/1725².</p> <p>1. Council Decision 2009/917/JHA on the use of information technology for customs purposes (OJ L 323, 10.12.2009, p. 20). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>personal data and respect the conditions for subsequent processing. Moreover, provision should be made for the coordinated supervision model as introduced by Article 62 of Regulation (EU) 2018/1725².</p> <p>1. Council Decision 2009/917/JHA on the use of information technology for customs purposes (OJ L 323, 10.12.2009, p. 20). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>the Commission, which does not have access to the in the Union, that Decision should be amended to align it with Directive (EU) 2016/680. In particular, the personal data protection rules should respect the principle of purpose specification, be limited to specified categories of data subjects and categories of personal data, respect data security requirements, include additional protection for special categories of personal data and respect the conditions for subsequent processing. Moreover, provision should be made stored in it. The central database is accessible by the designated authorities of the Member States, which may enter and consult the information stored in it. Europol and Eurojust have, within their mandate and for the coordinated supervision model as introduced by Article 62 of Regulation (EU) 2018/1725² fulfilment of their tasks, the right to access the data entered in the central database by the designated authorities of the Member States and to search those data.</p>	

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			<p>1. Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes (OJ L 323, 10.12.2009, p. 20).</p> <p>2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	
Recital 2a				
10a			<p>(2a) In order to ensure a consistent approach to the protection of personal data in the Union, Decision 2009/917/JHA should be amended in order to align it with Directive (EU) 2016/680. In particular, the personal data protection rules from that Decision should respect the principle of purpose limitation, be limited to specified categories of data subjects and categories of personal data, respect data security requirements, include additional protection for special categories of personal data and respect the</p>	

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			<p>conditions for subsequent processing. Moreover, provision should be made for the coordinated supervision by the European Data Protection Supervisor and the national supervisory authorities as set out in Regulation (EU) 2018/1725 of the European Parliament and of the Council ¹.</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	
Recital 3				
11	(3) In particular, in order to ensure a clear and consistent approach ensuring adequate protection of personal data, the term ‘serious contraventions’ should be replaced by ‘criminal offences’, bearing in mind that the fact that a given conduct is prohibited under the	(3) In particular, in order to ensure a clear and consistent approach ensuring adequate protection of personal data, the term ‘serious contraventions’ should be replaced by ‘criminal offences’, bearing in mind that the fact that a given conduct is prohibited under the	(3) In particular, in order to ensure a clear and consistent approach ensuring adequate protection of personal data, the term ‘serious contraventions’ should be replaced by ‘criminal offences’ <i>as referred to in Directive (EU) 2016/680</i> , bearing in mind that the fact that a	

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	<p>criminal law of a Member State in itself implies a certain degree of seriousness of the contravention. Moreover, the objective of the CIS should remain limited to assisting in connection to the prevention, investigation, detection or prosecution of the criminal offences under national laws as defined in Council Decision 2009/917/JHA, that is, national laws in respect of which national customs administrations are competent and that are therefore particularly relevant in the context of customs. Therefore, whereas qualification as a criminal offence is a necessary requirement, not all criminal offences should be considered to be covered. By way of example, the covered criminal offences include illicit drugs trafficking, illicit weapons trafficking and money laundering. Furthermore, other than the introduction of the term ‘criminal offences’, this amendment should not be understood as affecting the specific requirements set out in that Council Decision regarding the establishment and sending of a list of criminal offences under national laws that meet certain conditions,</p>	<p>criminal law of a Member State in itself implies a certain degree of seriousness of the contravention. Moreover, the objective of the CIS should remain limited to assisting in connection to the prevention, investigation, detection or prosecution of the criminal offences under national laws as defined in Council Decision 2009/917/JHA, that is, national laws in respect of which national customs administrations are competent and that are therefore particularly relevant in the context of customs. Therefore, whereas qualification as a criminal offence is a necessary requirement, not all criminal offences should be considered to be covered. By way of example, the covered criminal offences include illicit drugs trafficking, illicit weapons trafficking and money laundering. Furthermore, other than the introduction of the term ‘criminal offences’, this amendment should not be understood as affecting the specific requirements set out in that Council Decision regarding the establishment and sending of a list of criminal offences under national laws that meet certain conditions,</p>	<p>givenparticular conduct is prohibited under the criminal law of a Member State in itself implies a certain degree of seriousness of the contravention. Moreover, the objectivepurpose of the CIS should remain limited to assisting in connection to the prevention, investigation, detection or prosecution of the criminal offences under national laws as defined in Council Decision 2009/917/JHA, that is, national laws in respect of which nationalthe customs administrations of the Member States are competent and that are therefore particularly relevant in the context of customs. Therefore, whereas the qualification as a criminal offence is a necessary requirement, not all criminal offences should be considered to beunder national laws are covered. By way of example, the covered by Decision 2009/917/JHA. For instance , the criminal offences includeof illicit drugs trafficking, illicit weapons trafficking and money laundering are covered by Decision 2009/917/JHA. Furthermore, the replacement of the term ‘serious</p>	

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	those requirements relating only to the particular purpose of the customs files identification database.	those requirements relating only to the particular purpose of the customs files identification database.	contraventions' with other than the introduction of the term 'criminal offences', this amendment should not be understood as affecting the specific requirements set out in that Council Decision Decision 2009/917/JHA regarding the establishment and sending by each Member State of a list of criminal offences under their national laws that meet certain conditions, those requirements relating only to the particular purpose for the purposes of the customs files identification database.	
Recital 4				
12	(4) It is necessary to clarify the respective roles of the Commission and of the Member States with regard to the personal data. The Commission is considered the processor acting on behalf of the national authorities designated by each Member State, which are considered the controllers of the personal data.	(4) It is necessary to clarify the respective roles of the Commission and of the Member States with regard to the personal data. The Commission is considered the processor acting on behalf of the national authorities designated by each Member State, which are considered the controllers of the personal data.	(4) It is necessary to clarify the respective roles When processing personal data under Decision 2009/917/JHA, without prejudice to specific rules contained in that Decision, Member States are subject to their national provisions adopted pursuant to Directive (EU) 2016/680; the Commission is subject to the rules laid down in Regulation (EU) 2018/1725; Europol is subject to the rules laid down in	

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			<p>Regulation (EU) 2016/794 of the CommissionEuropean Parliament and of the Member States with regard toCouncil ¹; and Eurojust is subject to the personal data. The Commission is considered the processor acting on behalf of the rules laid down in Regulation (EU) 2018/1727 of the European Parliament and of the Council ². Those acts govern inter alia the obligations and responsibilities of controllers, joint controllers, processors and their relationship. National supervisory authorities designated by responsible for monitoring and ensuring the application of Directive (EU) 2016/680 in each Member State shall be competent for monitoring and ensuring the application by the competent authorities of each Member State, which are considered the controllers of the provisions relating to the protection of personal data in Decision 2009/917/JHA. The European Data Protection Supervisor should be responsible for monitoring and ensuring the application by the Commission, Europol, and Eurojust of the</p>	

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			<p>provisions relating to the protection of personal data in Decision 2009/917/JHA.</p> <p>1. Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).</p> <p>2. Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).</p>	
Recital 5				
13	(5) To ensure the optimal preservation of the data while reducing the administrative burden for the competent authorities, the procedure governing the retention of personal data in the CIS should be simplified by removing the obligation to review data annually and by setting a maximum retention period of five years	(5) To ensure the optimal preservation of the data while reducing the administrative burden for the competent authorities, the procedure governing the retention of personal data in the CIS should be simplified by removing the obligation to review data annually and by setting <u>as a general rule</u> a maximum retention period of	(5) In order to ensure the optimal preservation of the data, while reducing the administrative burden for the competent authorities, and in line with Council Regulation (EU) 515/1997¹ , the procedure governing the retention of personal data in the CIS should be simplified by removing the obligation to review data annually	

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	which can be increased, subject to justification, by an additional period of two years. That retention period is necessary and proportionate in view of the typical length of criminal proceedings and the need for the data for the conduct of joint customs operations and of investigations.	five three years which can be increased, subject to justification, by an additional period of two years. That retention period is necessary and proportionate in view of the typical length of criminal proceedings and the need for the data for the conduct of joint customs operations and of investigations.	and by setting a maximum retention period of five years which can be increased, subject to justification, by an additional period of two years. That retention period is necessary and proportionate in view of the typical length of criminal proceedings and the need for the data for the conduct of joint customs operations and of investigations. 1. Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).	
Recital 5a				
13a			(5a) The processing of personal data under Decision 2009/917/JHA involves the processing, exchange and subsequent use of relevant information for the purposes set out in Article 87 of the Treaty on the Functioning of the European Union (TFEU). In the interests of consistency and the effective	

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			<p>protection of personal data, the processing of personal data under Decision 2009/917/JHA should comply with Union and national law on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. It should be possible for personal data contained in information lawfully entered in the CIS to be processed for purposes other than those for which the CIS was set up, such as subsequent criminal or related administrative or civil procedures or parliamentary scrutiny, only in accordance with the applicable Union and national law and only if such processing is necessary and proportionate to its purpose.</p>	
Recital 6				
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	(6) In accordance with Article 6a of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the TFEU, Ireland is bound by Council Decision 2009/917/JHA and is therefore taking part in the adoption of this Regulation.	(6) In accordance with Article 6a of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the TFEU, Ireland is bound by Council Decision 2009/917/JHA and is therefore taking part in the adoption of this Regulation.	(6) In accordance with Article 6a of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the TFEU, Ireland is bound by Council Decision 2009/917/JHA and is therefore taking part in the adoption of this Regulation.	
Recital 7				
15	(7) In accordance with Articles 1, 2 and 2a of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	(7) In accordance with Articles 1, 2 and 2a of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	(7) In accordance with Articles 1, 2 and 2a of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union TEU and the Treaty on the Functioning of the European Union , Denmark is not TFEU, Denmark is bound by Decision 2009/917/JHA and is therefore taking part in the adoption of this Regulation and is not bound by it or subject to its application.	
Recital 8				
16	(8) The European Data Protection Supervisor was consulted in	(8) The European Data Protection Supervisor was consulted in	(8) The European Data Protection Supervisor was consulted in	

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	accordance with Article 42 of Regulation (EU) 2018/1725 and delivered an opinion on XX/XX/202X.	accordance with Article 42 of Regulation (EU) 2018/1725 and delivered an opinion on XX/XX/202X.	accordance with Article 42 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on XX/XX/202X 4 July 2023 .	
Recital 9				
17	(9) Council Decision 2009/917/JHA should therefore be amended accordingly,	(9) Council Decision 2009/917/JHA should therefore be amended accordingly,	(9) Council Decision 2009/917/JHA should therefore be amended accordingly,	
Formula				
18	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
Article 1				
19	Article 1	Article 1	Article 1	
Article 1, first paragraph				
20	Council Decision 2009/917/JHA is amended as follows:	Council Decision 2009/917/JHA is amended as follows:	Council Decision 2009/917/JHA is amended as follows:	
Article 1, first paragraph, point (1)				
21				

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	(1) Paragraph 2 of Article 1 is replaced by the following:	(1) Paragraph 2 of Article 1 is replaced by the following:	(1) Paragraph 2 of in Article 1, paragraph 2 is replaced by the following:	
Article 1, first paragraph, point (1), amending provision, numbered paragraph (2)				
22	‘ 2. The objective of the Customs Information System is to assist the competent authorities in the Member States with the prevention, investigation, detection or prosecution of criminal offences under national laws, by making information available more rapidly, thereby increasing the effectiveness of the cooperation and control procedures of the customs administrations of the Member States. ’	‘ 2. The objective of the Customs Information System is to assist the competent authorities in the Member States with the prevention, investigation, detection or prosecution of criminal offences under national laws, by making information available more rapidly, thereby increasing the effectiveness of the cooperation and control procedures of the customs administrations of the Member States. ’	‘ 2. The objective purpose of the Customs Information System, in accordance with this Decision, shall be is to assist the competent authorities in of the Member States with the prevention, investigation, detection or prosecution of criminal offences under national laws, by making information available more rapidly, thereby increasing the effectiveness of the cooperation and control procedures of the customs administrations of the Member States. ’	
Article 1, first paragraph, point (2)				
23	(2) Point 2 of Article 2 is hereby deleted.	(2) <u>In Article 2</u> point 2 of Article 2 is hereby deleted. <u>(2) is replaced by the following:</u>	(2) Point 2 of Article 2 is hereby deleted. amended as follows:	
Article 1, first paragraph, point (2)(a)				

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23a			(a) point (2) is replaced by the following:	
Article 1, first paragraph, point (2)(a), amending provision, first paragraph				
23b		<p><u>‘2. “personal data” means personal data as defined in Article 3, point (1), of Directive (EU) 2016/680 of the European Parliament and of the Council¹;’;</u></p> <p><u>1. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).</u></p>	<p>2. “personal data” means personal data as defined in Article 3, point (1), of Directive (EU) 2016/680 of the European Parliament and of the Council*.</p> <p>* Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).’;</p>	
Article 1, first paragraph, point (2)(b)				

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23c			(b) the following point is added:	
Article 1, first paragraph, point (2)(b), amending provision, first paragraph				
23d			<p>‘</p> <p>6. “national supervisory authority” means a supervisory authority as defined in Article 3 point (15) of Directive (EU) 2016/680.</p> <p>’</p>	
Article 1, first paragraph, point (2a)				
23e			(2a) in Article 3(1), the introductory words are replaced by the following:	
Article 1, first paragraph, point (2a), amending provision, first paragraph				
23f			<p>‘</p> <p>(1) The Customs Information System shall consist of a central database facility, accessible through terminals in each Member State. It shall comprise exclusively data necessary to achieve its purpose as stated in Article 1(2), including personal</p>	

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			data, in the following categories:	
Article 1, first paragraph, point (3)				
24	(3) After the first sentence of paragraph 2 of Article 3, a new sentence is added as follows:	(3) After the first sentence of paragraph 2 of Article 3, a new sentence is added as follows:	(3) After the first sentence of paragraph 2 of Article 3, a new sentence is added as follows:	
Article 1, first paragraph, point (3), amending provision, first paragraph				
25	‘ In relation to the processing of personal data in the Customs Information System, the Commission shall be considered the processor, within the meaning of point (12) of Article 3 of Regulation (EU) 2018/1725, acting on behalf of the national authorities designated by each Member State, which shall be considered the controllers of the personal data.’	‘ In relation to the processing of personal data in the Customs Information System, the Commission shall be considered the processor, within the meaning of point (12) of Article 3 of Regulation (EU) 2018/1725, acting <u>in accordance with Article 29 of that Regulation</u> , on behalf of the national authorities designated by each Member State, which shall be considered the controllers of the personal data.’	In relation to the processing of personal data in the Customs Information System, the Commission shall be considered the processor, within the meaning of point (12) of Article 3 of Regulation (EU) 2018/1725, acting on behalf of the national authorities designated by each Member State, which shall be considered the controllers of the personal data.	
Article 1, first paragraph, point (3a)				
25a			(3a) Article 4 is amended as	

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			follows:	
Article 1, first paragraph, point (3a)(a)				
25b			(a) paragraph 1 is replaced by the following:	
Article 1, first paragraph, point (3a)(a), amending provision, first paragraph				
25c			<p>‘</p> <p>1. Member States shall determine the items to be entered into the Customs Information System relating to each of the categories referred to in Article 3(1), to the extent that this is necessary to achieve the purpose of that system. No items of personal data shall be entered in any event within the category set out in Article 3(1), point (e).</p> <p>,</p>	
Article 1, first paragraph, point (4)				
26	(4) Paragraph 5 of Article 4 is replaced by the following:	(4) Paragraph 5 of Article 4 is replaced by the following:	(4) paragraph 5 of Article 4 is replaced by the following:	
Article 1, first paragraph, point (4), amending provision, numbered paragraph (5)				

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27	‘ 5. In no case shall personal data referred to in Article 10 of Directive (EU) 2016/680 be entered into the Customs Information System. ’	‘ 5. In no case shall personal data referred to in Article 10 of Directive (EU) 2016/680 be entered into the Customs Information System. ’	‘ 5. In no case shall the special categories of personal data referred to in Article 10 of Directive (EU) 2016/680 be entered into the Customs Information System. ’	
Article 1, first paragraph, point (5)				
28	(5) Paragraph 2 of Article 5 is replaced by the following:	(5) Paragraph 2 of Article 5 is replaced by the following:	(5) Paragraph 2 of in Article 5, paragraph 2 is replaced by the following:	
Article 1, first paragraph, point (5), amending provision, numbered paragraph (2)				
29	‘ 2. For the purpose of the actions referred to in paragraph 1, personal data in any of the categories referred to in Article 3(1) may be entered into the Customs Information System only if there are reasonable grounds, in particular on the basis of prior illegal activities, to suggest that the person concerned has committed, is in the act of committing or will commit criminal offences under ’	‘ 2. For the purpose of the actions referred to in paragraph 1, personal data in any of the categories referred to in Article 3(1) may be entered into the Customs Information System only if there are reasonable <u>and objective</u> grounds, in particular on the basis of prior illegal activities, to suggest that the person concerned has committed, is in the act of committing or will commit ’	‘ 2. For the purpose of the actions referred to in paragraph 1, personal data in any of the categories referred to in Article 3(1) may be entered into the Customs Information System only if there are reasonable grounds, in particular on the basis of prior illegal activities, to suggest that the person concerned has committed, is in the act of committing or will commit criminal offences under ’	

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	national laws.	criminal offences under national laws.	national laws.	
Article 1, first paragraph, point (5a)				
29a			(5a) in Article 7, paragraph 1 is replaced by the following:	
Article 1, first paragraph, point (5a), amending provision, first paragraph				
29b			<p>1. Direct access to data entered into the Customs Information System shall be reserved to the national authorities designated by each Member State. Those national authorities shall be customs administrations, but may also include other authorities competent, according to the laws, regulations and procedures of the Member State in question, to act in order to achieve the purpose stated in Article 1(2).</p>	
Article 1, first paragraph, point (6)				
30				

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	(6) Paragraph 3 of Article 7 is replaced by the following:	(6) Paragraph 3 of In Article 7 is replaced by the following: paragraph 3 is deleted;	(6) Paragraph 3 of in Article 7 is replaced by the following: paragraph 3 is deleted.	
Article 1, first paragraph, point (6), amending provision, numbered paragraph (3)				
31	3. Notwithstanding paragraphs 1 and 2, the Council may exceptionally, by a unanimous decision and after consultation of the European Data Protection Board, permit access to the Customs Information System by international or regional organisations, provided that both of the following conditions are met:	3. Notwithstanding paragraphs 1 and 2, the Council may exceptionally, by a unanimous decision and after consultation of the European Data Protection Board, permit access to the Customs Information System by international or regional organisations, provided that both of the following conditions are met:	3. Notwithstanding paragraphs 1 and 2, the Council may exceptionally, by a unanimous decision and after consultation of the European Data Protection Board, permit access to the Customs Information System by international or regional organisations, provided that both of the following conditions are met:	
Article 1, first paragraph, point (6), amending provision, numbered paragraph (3), point (a)				
32	(a) the access complies with the general principles for transfers of personal data set out in Article 35 or, where applicable, Article 39 of Directive (EU) 2016/680;	(a) the access complies with the general principles for transfers of personal data set out in Article 35 or, where applicable, Article 39 of Directive (EU) 2016/680;	(a) the access complies with the general principles for transfers of personal data set out in Article 35 or, where applicable, Article 39 of Directive (EU) 2016/680;	
Article 1, first paragraph, point (6), amending provision, numbered paragraph (3), point (b)				
33	(b) the access is based either on an	(b) the access is based either on	(b) the access is based either on an	

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	adequacy decision adopted under Article 36 of that Directive or is subject to appropriate safeguards under Article 37 thereof.	an adequacy decision adopted under Article 36 of that Directive or is subject to appropriate safeguards under Article 37 thereof.	adequacy decision adopted under Article 36 of that Directive or is subject to appropriate safeguards under Article 37 thereof.	
Article 1, first paragraph, point (7)				
34	(7) Paragraph 1 of Article 8 is replaced by the following:	(7) Paragraph 1 of Article 8 is replaced by the following:	(7) Paragraph 1 of Article 8 is replaced by the following amended as follows:	
Article 1, first paragraph, point (7)(a)				
34a			(a) paragraphs 1 and 2 are replaced by the following:	
Article 1, first paragraph, point (7), amending provision, numbered paragraph (1), first subparagraph				
35	1. Member States, Europol and Eurojust may process personal data obtained from the Customs Information System only in order to achieve the aim stated in Article 1(2), in accordance with the applicable rules of Union law on the processing of personal data.	1. Member States, Europol and Eurojust may process personal data obtained from the Customs Information System only in order to achieve the aim stated in Article 1(2), in accordance with the applicable rules of Union law on the processing protection of personal data.	1. The national authorities designated by each Member State in accordance with Article 7(1) , Europol and Eurojust may process personal data obtained from the Customs Information System only in order to achieve the aim purpose stated in Article 1(2), or for other purposes in	

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			accordance with the Union or national law applicable rules of Union law on the processing of to the protection of personal data with the prior authorisation of, and subject to compliance with any conditions imposed by, the designated national authorities of the Member State which entered the personal data in that system.	
Article 1, first paragraph, point (7), amending provision, numbered paragraph (1), second subparagraph				
36	Member States, Europol and Eurojust may process non-personal data obtained from the Customs Information System in order to achieve the aim stated in Article 1(2) or for other purposes, including administrative ones, in compliance with any conditions imposed by the Member State which entered the non-personal data in that system.	Member States, Europol and Eurojust may process non-personal data obtained from the Customs Information System in order to achieve the aim stated in Article 1(2) or for other purposes, including administrative ones, in compliance with any conditions imposed by the Member State which entered the non-personal data in that system.	Member States, Europol and Eurojust may process non-personal data obtained from the Customs Information System in order to achieve the aim purpose stated in Article 1(2) or for other purposes, including administrative ones, in compliance with any conditions imposed by the designated national authorities of the Member State which entered the non-personal data in that system.	
Article 1, first paragraph, point (7), amending provision, numbered paragraph (1a)				
36a		<u><i>In Article 8 paragraph 2 is replaced by the following:</i></u> <u><i>'2. Without prejudice to</i></u>	2. Without prejudice to paragraphs 1 and 4 of this Article and Articles 11 and 12,	

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		<u>paragraphs 1 and 4 of this Article, and Articles 11 and 12, data obtained from the Customs Information System shall only be used by national authorities in each Member State designated by the Member State in question, which are competent, in accordance with the laws, regulations and procedures of that Member State, to act in order to achieve the aim stated in Article 1(2).’;</u>	data obtained from the Customs Information System shall only be used by national authorities in each Member State designated by the Member State in question, which are competent, in accordance with the laws, regulations and procedures of that Member State, to act in order to achieve the purpose stated in Article 1(2).	
Article 1, first paragraph, point (8)				
37	(8) Paragraph 4 of Article 8 is replaced by the following:	(8) Paragraph 4 of Article 8 is replaced by the following:	(8) paragraph 4 of Article 8 is replaced by the following:	
Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), first subparagraph				
38	‘ 4. Personal data obtained from the Customs Information System may, with the prior authorisation of, and subject to compliance with any conditions imposed by, the Member State which entered that data into that system, be:	‘ 4. Personal data obtained from the Customs Information System may, with the prior authorisation of, and subject to compliance with any conditions imposed by, the Member State which entered that data into that system, be:	‘ 4. Personal data obtained from the Customs Information System may, with the prior authorisation of, and subject to compliance with any conditions imposed by, the designated national authorities of the Member State which entered that data into that system, be:	

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Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), first subparagraph, point (a)				
39	(a) transmitted to, and further processed by, national authorities other than those designated under paragraph 2, in accordance with the applicable rules of Union law on the processing of personal data; or	(a) transmitted to, and further processed by, national authorities other than those designated under paragraph 2, in accordance with the applicable rules of Union law on the processing <u>protection</u> of personal data; or	(a) transmitted to, and further processed by, national authorities other than those designated under paragraph 2, in accordance with the applicable rules of Union law on the processing Union or national law applicable to the protection of personal data; or	
Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), first subparagraph, point (b)				
40	(b) transferred to, and further processed by, the competent authorities of third countries and international or regional organisations, in accordance with Chapter V of Directive (EU) 2016/680 and, where relevant, with Chapter V of Regulation (EU) 2018/1725.	(b) transferred to, and further processed by, the competent authorities of third countries and international or regional organisations, in accordance with Chapter V of Directive (EU) 2016/680 and, where relevant, with Chapter V <u>Chapters V and IX</u> of Regulation (EU) 2018/1725.	(b) transferred to, and further processed by, the competent authorities of third countries and international or regional organisations, in accordance with Chapter V of Directive (EU) 2016/680 and, where relevant, with Chapter V of Regulation (EU) 2018/1725 Union or national law applicable to the protection of personal data .	
Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), second subparagraph				
41	Non-personal data obtained from the Customs Information System	Non-personal data obtained from the Customs Information System	Non-personal data obtained from the Customs Information System	

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	may be transferred to, and further processed by national authorities other than those designated under paragraph 2, third countries, and international or regional organisations, in compliance with any conditions imposed by the Member State which entered the non-personal data in that system.	may be transferred to, and further processed by national authorities other than those designated under paragraph 2, third countries, and international or regional organisations, in compliance with any conditions imposed by the Member State which entered the non-personal data in that system.	may be transferred to, and further processed by national authorities other than those designated under paragraph 2, third countries, and international or regional organisations, in compliance with any conditions imposed by the designated national authorities of the Member State which entered the non-personal data in that system.	
Article 1, first paragraph, point (8a)				
41a			<i>(8a) in Article 13, paragraph 5 is replaced by the following:</i>	
Article 1, first paragraph, point (8a), amending provision, first paragraph				
41b			5. Subject to this Decision, where in any Member State a court, or other competent authority within that Member State, makes a final decision as to amendment, supplementation, rectification or erasure of data in the Customs Information System, the Member States undertake mutually to enforce	

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			such a decision. In the event of conflict between such decisions of courts or of other competent authorities in different Member States, including of the national supervisory authorities, concerning rectification or erasure, the Member State which entered the data in question shall erase them from that system.	
Article 1, first paragraph, point (9)				
42	(9) Article 14 is replaced by the following:	(9) Article 14 is replaced by the following:	(9) Article 14 is replaced by the following:	
Article 1, first paragraph, point (9), amending provision, first paragraph				
43	Personal data entered into the Customs Information System shall be kept only for the time necessary to achieve the aim stated in Article 1(2) and may not be retained for more than five years. However, exceptionally, that data may be kept for an additional period of at most two years, where and insofar as a strict need to do so in order to achieve that aim is established in	Personal data entered into the Customs Information System shall be kept only for the time necessary to achieve the aim stated in Article 1(2). <u>The need for their retention shall, as a general rule, be reviewed at least once every three</u> and may not be retained for more than five years. However, exceptionally, that data may be kept for an additional period of at	Article 14 Personal data entered into the Customs Information System shall be kept only for the time necessary to achieve the aim purpose stated in Article 1(2) and may not be retained for more than five years. However, exceptionally, that those data may be kept retained for an additional period of at most up to two years, where and insofar as a	

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	an individual case.	most two years, where and insofar as a strict need to do so <u>strictly necessary</u> in order to achieve that aim is established in an individual case.	strict need to do so in order to achieve that aim <u>purpose</u> is established in an individual case.	
Article 1, first paragraph, point (9a)				
43a			<i>(9a) Article 15 is amended as follows:</i>	
Article 1, first paragraph, point (9a)(a)				
43b			<i>(a) paragraph 2 is replaced by the following:</i>	
Article 1, first paragraph, point (9a)(a), amending provision, first paragraph				
43c			<p>2. <i>The purpose of the customs files identification database shall be to enable the national authorities responsible for carrying out customs investigations designated pursuant to Article 7, when opening a file on or investigating one or more persons or businesses, and for Europol and Eurojust, to identify</i></p>	

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			<i>the competent authorities of other Member States which are investigating or have investigated those persons or businesses, in order, through information on the existence of investigation files, to achieve the purpose referred to in Article 1(2).</i>	
Article 1, first paragraph, point (10)				
44	(10) Paragraph 3 of Article 15 is replaced by the following:	(10) Paragraph 3 of Article 15 is replaced by the following:	(10) paragraph 3 of Article 15 is replaced by the following:	
Article 1, first paragraph, point (10), amending provision, numbered paragraph (3), first subparagraph				
45	3. For the purposes of the customs files identification database, each Member State shall send the other Member States, Europol, Eurojust and the Committee referred to in Article 27 a list of criminal offences under its national laws.	3. For the purposes of the customs files identification database, each Member State shall send the other Member States, Europol, Eurojust and the Committee referred to in Article 27 a list of criminal offences under its national laws.	3. For the purposes of the customs files identification database, each Member State shall send the other Member States, Europol, Eurojust and the Committee referred to in Article 27 a list of criminal offences under its national laws.	
Article 1, first paragraph, point (10), amending provision, numbered paragraph (3), second subparagraph				
46	This list shall comprise only criminal offences that are	This list shall comprise only criminal offences that are	This list shall comprise only criminal offences that are	

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	punishable:	punishable:	punishable:	
Article 1, first paragraph, point (10), amending provision, numbered paragraph (3), second subparagraph, point (a)				
47	(a) by deprivation of liberty or a detention order for a maximum period of not less than 12 months; or	(a) by deprivation of liberty or a detention order for a maximum period of not less than 12 months; or	(a) by deprivation of liberty or a detention order for a maximum period of not less than 12 months; or	
Article 1, first paragraph, point (10), amending provision, numbered paragraph (3), second subparagraph, point (b)				
48	(b) by a fine of at least EUR 15 000.	(b) by a fine of at least EUR 15 000.	(b) by a fine of at least EUR 15 000.	
Article 1, first paragraph, point (11)				
49	(11) Article 20 is replaced by the following:	(11) Article 20 is replaced by the following:	(11) Article 20 is replaced by the following; deleted;	
Article 1, first paragraph, point (11), amending provision, first paragraph				
50	‘ Directive (EU) 2016/680 shall apply to the processing of personal data under this Decision. ’	‘ Directive (EU) 2016/680 <u>and Regulation (EU) 2018/1725</u> shall apply to the processing of personal data under this Decision. ’	Directive (EU) 2016/680 shall apply to the processing of personal data under this Decision.	

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Article 1, first paragraph, point (12)				
51	(12) Articles 22, 23, 24 and 25 are hereby deleted.	(12) Articles 22, 23, 24 and 25 are hereby deleted.	(12) Articles 22, 23, 24 and 25 are hereby deleted-;	
Article 1, first paragraph, point (13)				
52	(13) Article 26 is replaced by the following:	(13) Article 26 is replaced by the following:	(13) Article 26 is replaced by the following:	
Article 1, first paragraph, point (13), amending provision, first paragraph				
53	Coordinated supervision among national supervisory authorities and the European Data Protection Supervisor shall be ensured in accordance with Article 62 of Regulation (EU) 2018/1725.	Coordinated supervision among national supervisory authorities and <u>1. The European Data Protection Supervisor shall be responsible for monitoring the processing of personal data under this Regulation by the Commission and for ensuring that it is carried out in accordance with this Regulation. The tasks and powers referred to in Articles 57 and 58 of Regulation (EU) 2018/1725 shall apply accordingly.</u> <u>2. The European Data Protection Supervisor shall carry out an audit of the processing of personal data by the Commission</u>	Coordinated supervision among national supervisory authorities and the European Data Protection Supervisor shall be ensured in accordance with Article 62 of Regulation (EU) 2018/1725.	

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		<p><u>under this Regulation in accordance with international auditing standards at least every three years. A report on that audit shall be sent to the European Parliament, to the Council, to the Commission and to the national supervisory authorities.</u></p> <p><u>3. The European Data Protection Supervisor and the national supervisory authorities, each acting within the scope of their respective competences, shall cooperate actively within the framework of their responsibilities to ensure coordinated supervision</u>be ensured in accordance with Article 62 of Regulation (EU) 2018/1725.</p>		
Article 1, first paragraph, point (13a)				
53a			(13a) in Article 27, paragraph 2, point (a) is replaced by the following:	
Article 1, first paragraph, point (13a), amending provision, first paragraph				
53b			‘ (a) for the implementation and	

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			correct application of this Decision, without prejudice to the powers of the national supervisory authorities and of the European Data Protection Supervisor;	
Article 1, first paragraph, point (14)				
54	(14) In paragraph 2 of Article 28, the following points are added:	(14) In paragraph 2 of Article 28, the following points are added:	(14) In paragraph 2 of in Article 28, paragraph 2 , the following points are added:	
Article 1, first paragraph, point (14), amending provision, numbered paragraph (i)				
55	(i) to ensure that installed systems may, in the case of interruption, be restored;	(i) to ensure that installed systems may, in the case of interruption, be restored;	(i) to ensure that installed systems may, in the case of interruption, be restored;	
Article 1, first paragraph, point (14), amending provision, numbered paragraph (j)				
56	(j) to ensure that the functions of the system perform, that the appearance of faults in the functions is reported and that stored personal data cannot be corrupted by means of a malfunctioning of the system.	(j) to ensure that the functions of the system perform, that the appearance of faults in the functions is reported and that stored personal data cannot be corrupted by means of a malfunctioning of the system.	(j) to ensure that the functions of the system perform, that the appearance of faults in the functions is reported and that stored personal data cannot be corrupted by means of a malfunctioning of the system.	

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Article 1, first paragraph, point (14a)				
56a			(14a) in Article 28, paragraph 3 is replaced by the following:	
Article 1, first paragraph, point (14a), amending provision, first paragraph				
56b			<p>3. The Committee referred to in Article 27 shall monitor queries of the Customs Information System for the purpose of checking that searches made were admissible and were made by authorised users. At least 1 % of all searches made shall be checked. A record of such searches and checks shall be maintained in the system and shall be used only for the abovementioned purpose by that Committee, the national supervisory authorities and the European Data Protection Supervisor. It shall be erased after six months.</p>	
Article 1, first paragraph, point (14b)				

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56c			(14b) Article 29 is replaced by the following:	
Article 1, first paragraph, point (14b), amending provision, first paragraph				
56d			<p>Article 29</p> <p>The competent customs administration referred to in Article 10(1) shall be responsible for the security measures set out in Article 28, in relation to the terminals located in the territory of the Member State concerned, the review functions set out in Articles 14 and 19, and otherwise for the proper implementation of this Decision so far as is necessary under the laws, regulations and procedures of that Member State.</p>	
Article 1, first paragraph, point (15)				
57	(15) Paragraph 1 of Article 30 is hereby deleted.	(15) Paragraph 1 of Article 30 is hereby deleted.	(15) Paragraph 1 of Article 30 is hereby deleted. in Article 30, paragraph 1 is deleted.	
Article 1a				

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57a			Article 2	
Article 1a, first paragraph				
57b			By....[18 months after the date of entry into force of this Regulation], without prejudice to the application of this Regulation, the personal data entered into the Customs Information System before....[the date of entry into force of this Regulation] shall be reviewed by the Member States which entered those data and, where necessary, updated or deleted in order to ensure that their processing complies with Decision 2009/917/JHA as amended by Article 1(1) of this Regulation.	
Article 2				
58	Article 2	Article 2	Article 23	
Article 2, first paragraph				

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59	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	
Article 2, second paragraph				
60	This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	
Formula				
61	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula				
62	For the European Parliament	For the European Parliament	For the European Parliament	
Formula				
63	The President	The President	The President	
Formula				
64				

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	For the Council	For the Council	For the Council	
Formula				
65	The President	The President	The President	