

Klasa: 018-05/08-01/01

Urbroj: 5030105-11-1

Zagreb, 24. veljače 2011.

PREDSJEDNIKU HRVATSKOGA SABORA

Predmet: Prijedlog zakona o potvrđivanju Konvencije Centra za provedbu zakona u jugoistočnoj Europi, s Konačnim prijedlogom zakona

Na temelju članka 84. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst) i članaka 129. i 159. Poslovnika Hrvatskoga sabora (Narodne novine, br. 71/2000, 129/2000, 117/2001, 6/2002 – pročišćeni tekst, 41/2002, 91/2003, 58/2004, 69/2007, 39/2008 i 86/2008), Vlada Republike Hrvatske podnosi Prijedlog zakona o potvrđivanju Konvencije Centra za provedbu zakona u jugoistočnoj Europi, s Konačnim prijedlogom zakona za hitni postupak.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila mr. sc. Martinu Dalić, ministricu financija, mr. sc. Hrvoja Čovića, državnog tajnika u Ministarstvu financija i ravnatelja Carinske uprave, te dr. sc. Zdravka Marića i Ivanu Maletić, državne tajnike u Ministarstvu financija.

PREDSJEDNICA

Jadranka Kosor, dipl. iur.

VLADA REPUBLIKE HRVATSKE

**PRIJEDLOG ZAKONA O POTVRĐIVANJU KONVENCIJE
CENTRA ZA PROVEDBU ZAKONA U JUGOISTOČNOJ EUROPI,
S KONAČNIM PRIJEDLOGOM ZAKONA**

Zagreb, veljača 2011.

PRIJEDLOG ZAKONA O POTVRĐIVANJU KONVENCIJE CENTRA ZA PROVEDBU ZAKONA U JUGOISTOČNOJ EUROPI

I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA

Ustavna osnova za donošenje Zakona o potvrđivanju Konvencije Centra za provedbu zakona u jugoistočnoj Europi (u daljnjem tekstu: „SELEC Konvencija“) sadržana je u odredbi članka 139. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst).

II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI

Republika Hrvatska je 1. studenoga 2001. godine postala strankom Ugovora o suradnji u sprječavanju i suzbijanju prekograničnog kriminala i Povelje o organizaciji i djelovanju Inicijative za suradnju u jugoistočnoj Europi - SECI Regionalnog centra (SECI Centra) za suzbijanje prekograničnog kriminala, sklopljenog u Bukureštu 26. svibnja 1999. godine (u daljnjem tekstu: „SECI Ugovor“). SECI Centar je regionalni centar za policijsku i carinsku suradnju u sprječavanju prekograničnog kriminala osnovan 2000. godine sa sjedištem u Bukureštu, Rumunjska.

Uz Republiku Hrvatsku države sudionice SECI Centra su i Republika Albanija, Bosna i Hercegovina, Republika Bugarska, Crna Gora, Helenska Republika, Republika Makedonija, Republika Mađarska, Republika Moldova, Rumunjska, Republika Srbija, Republika Slovenija i Republika Turska. Cilj ove međunarodne inicijative je stvaranje gospodarske i političke stabilnosti unutar državnog područja Država sudionica kroz suradnju na području prevencije u borbi protiv prekograničnog kriminala, a provodi se zajedničkim djelovanjem policije i carine.

Smatrajući da je u zajedničkom interesu ostvariti koristi od mogućnosti koje je stvorio SECI Centar za suzbijanje prekograničnog kriminala, te očekujući daljnje razvijanje i promicanje mehanizma za učinkovitu suradnju, države sudionice SECI Centra su iskazale potrebu za osnivanjem nove međunarodne organizacije – Centra za provedbu zakona u jugoistočnoj Europi (u daljnjem tekstu: „SELEC Centar“), a koja bi bila pravni slijednik SECI Centra. Na tragu te inicijative, Odbor za zajedničku suradnju SECI Centra (JCC) je 4. prosinca 2006. godine donio Odluku o osnivanju Stručne radne skupine za izradu SELEC Konvencije kojom bi se uspostavio Centar za provedbu zakona u jugoistočnoj Europi (u daljnjem tekstu: „SELEC“), a koja bi trebala zamijeniti postojeći SECI Ugovor. SELEC Centar bi time dobio međunarodnu pravnu osobnost, razvio potrebne strukturne, organizacijske, pravne i financijske okvire te proširio mogućnosti za suradnju s međunarodnim organizacijama a posebice s EUROPOL-om. Stručna radna skupina za izradu SELEC Konvencije je u razdoblju od travnja 2007. godine do veljače 2010. godine održala 15 sastanaka.

SELEC Konvencija sklopljena je u Bukureštu 9. prosinca 2009. godine. Konvenciju su potpisali predstavnici 13 zemalja članica, odnosno Republike Albanije, Bosne i Hercegovine, Republike Bugarske, Crne Gore, Helenske Republike, Republike Hrvatske, Republike Mađarske, Republike Makedonije, Republike Moldove, Rumunjske, Republike Srbije, Republike Slovenije i Republike Turske. SELEC Konvencija predstavlja pravni okvir kojim se uređuje i olakšava suradnja nadležnih tijela država članica kroz SELEC.

U skladu s Odlukom Vlade Republike Hrvatske o pokretanju postupka za sklapanje Konvencije centra za provedbu zakona u jugoistočnoj Europi od 26. studenoga 2009. godine (klase: 018-05/08-01/01, urbroja: 5030105-09-1) ovlašteno izaslanstvo Republike Hrvatske obavilo je završne pregovore u okviru Stručne radne skupine za izradu SELEC Konvencije, osnovane temeljem Odluke Odbora za zajedničku suradnju SECI Centra. Sukladno navedenoj odluci SELEC Konvenciju je, u ime Vlade Republike Hrvatske, potpisala gđa. Ivana Soić, pomoćnica ravnatelja Carinske uprave Ministarstva financija.

Republika Hrvatska, ratifikacijom ove Konvencije, daje jasan znak o svojoj opredijeljenosti za regionalnu međunarodnu suradnju usmjerenu prema cilju daljnjeg razvijanja i promicanja mehanizama za učinkovitu suradnju između država članica Konvencije, a u svrhu prevencije i suzbijanja prekograničnog kriminala.

III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM

Ovim Zakonom potvrđuje se SELEC Konvencija, kako bi njezine odredbe u smislu članka 140. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst), nakon ispunjenja uvjeta za njezino stupanje na snagu, postale dio unutarnjeg pravnog poretka Republike Hrvatske.

SELEC Konvencija se sastoji od 52 članka, kojima je definirano osnivanje SELEC-a, njegov cilj i zadaće, definicije, pravni status i ustroj, primanje u članstvo, informacijski sustav i sigurnost podataka, zaštita osobnih podataka, financijske odredbe, rješavanje sporova, postupak potpisivanja, ratifikacije, prihvata, odobrenja ili pristupa, otkaza, uvjeti za stupanje na snagu, postupak izmjene SELEC Konvencije, kao i odredbe o depozitaru i službenom jeziku. SELEC Konvencija je sastavljena u jednom izvorniku na engleskom jeziku.

Osnovni cilj koji se SELEC Konvencijom želi postići je osnovati Centar za provedbu zakona u jugoistočnoj Europi – SELEC, kako bi služio kao okvir za suradnju između njihovih nadležnih tijela radi ostvarenja cilja SELEC-a.

Cilj SELEC-a je, u okviru suradnje među nadležnim tijelima vlasti, pružiti potporu državama članicama i poboljšati koordinaciju u sprječavanju i suzbijanju kriminala, uključujući teški i organizirani kriminal, gdje taj kriminal uključuje ili se čini da uključuje element prekogranične aktivnosti i to pružanjem potpore u istrazi i sprječavanju kaznenih djela, olakšavanjem razmjene podataka, međusobnim obavještavanjem o počiniteljima kaznenih djela, prikupljanjem i uspoređivanjem podataka, uspostavljanjem, vođenjem i zaštitom sustava razmjene podataka, te pružanjem operativne, logističke te ovisno o slučaju i analitičke potpore zajedničkim istragama.

Ratifikacijom ovog međunarodnopravnog instrumenta stranke SELEC Konvencije preuzimaju obvezu osnivanja nacionalnih jedinica u svrhu provedbe cilja SELEC Konvencije. Ove nacionalne jedinice se sastoje od službenika za vezu koji radi u sjedištu SELEC-a i nacionalnih središnjih točaka koje djeluju kao jedina kontaktna točka stranke za komunikaciju sa SELEC-om, putem službenika za vezu predmetne stranke.

Stupanjem na snagu SELEC Konvencije, SECI Ugovor, sklopljen u Bukureštu, Rumunjska, 26. svibnja 1999. godine, prestaje biti na snazi. Sva prava, obveze i imovina koja pripada SECI Centru prenosi se na SELEC datumom stupanja na snagu SELEC Konvencije.

IV. OCJENA SREDSTAVA POTREBNIH ZA PROVEDBU ZAKONA

Za provedbu ovoga Zakona nije potrebno osigurati dodatna financijska sredstva u Državnom proračunu Republike Hrvatske jer su potrebna sredstva planirana u redovnim djelatnostima Carinske uprave Ministarstva financija i Ministarstva unutarnjih poslova.

V. PRIJEDLOG ZA DONOŠENJE ZAKONA PO HITNOM POSTUPKU

Temelj za donošenje ovoga zakona po hitnom postupku nalazi se u članku 159. Poslovnika Hrvatskog sabora (Narodne novine, br. 71/2000, 129/2000, 117/2001, 6/2002 – pročišćeni tekst, 41/2002, 91/2003, 58/2004, 69/2007, 39/2008 i 86/2008) i to u drugim osobito opravdanim državnim razlozima, budući da je njegovo stupanje na snagu pretpostavka za stupanje na snagu Konvencije Centra za provedbu zakona u jugoistočnoj Europi.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojim država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da se u ovoj fazi postupka, u pravilu, ne mogu vršiti izmjene i dopune teksta međunarodnog ugovora, predlaže se da se ovaj Prijedlog zakona raspravi i prihvati po hitnom postupku, objedinjavajući prvo i drugo čitanje.

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU KONVENCIJE CENTRA
ZA PROVEDBU ZAKONA U JUGOISTOČNOJ EUROPI**

Članak 1.

Potvrđuje se Konvencija Centra za provedbu zakona u jugoistočnoj Europi, potpisana u Bukureštu, Rumunjska, 9. prosinca 2009. godine, u izvorniku na engleskom jeziku.

Članak 2.

Tekst Konvencije Centra za provedbu zakona u jugoistočnoj Europi, u izvorniku na engleskom i u prijevodu na hrvatski jezik, glasi:

KONVENCIJA CENTRA ZA PROVEDBU ZAKONA U JUGOISTOČNOJ EUROPI

Stranke ove Konvencije, koje su ugovorne stranke Ugovora o suradnji u sprečavanju i suzbijanju prekograničnog kriminala, sastavljenog u Bukureštu, Rumunjska, 26. svibnja 1999. godine (u daljnjem tekstu: „države članice“);

prepoznajući vrijednost i napredak suradnje, struktura i postupaka koji su uspostavljeni i razvijeni u okviru Inicijative za suradnju u jugoistočnoj Europi (SECI);

potvrđujući da sve demokratske države imaju dužnost uspostaviti društvo utemeljeno na slobodi, sigurnosti i pravdi;

poštujući Europsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda;

svjesne da kriminalci ne poštuju granice i spremni su koristiti iste na štetu pravičnosti i pravde;

imajući na umu da kriminalni poduzetnici kroz transnacionalna kriminalna tržišta i sklapanjem međunarodnih nedopuštenih trgovinskih saveza podrivaju i korumpiraju zakonita gospodarstva, društva i vladavinu prava;

uzimajući u obzir da je odgovornost svih vlada u interesu njihovih građana poduzimati učinkovite mjere za borbu protiv kriminala i njegovih uzroka, uz puno poštivanje temeljnih prava pojedinaca, uključujući zaštitu osobnih podataka;

prepoznajući važnu ulogu koju učinkovita razmjena informacija među agencijama za provedbu zakona ima u sprečavanju i suzbijanju svih oblika kriminala i teškog kriminala, uključujući terorizam;

smatrajući da je u zajedničkom interesu iskoristiti prednosti i mogućnosti koje je stvorio SECI Regionalni centar za suzbijanje prekograničnog kriminala (SECI Centar) i u očekivanju daljnjeg unapređenja tih prednosti i mogućnosti u okviru nove međunarodne organizacije;

uzimajući u obzir međunarodne ugovore u području prekograničnog kriminala i suradnje u provedbi zakona, kao i pravnu stečevinu EU-a u mjeri u kojoj je primjenjiva;

sukladno ovom zajedničkom cilju i zajedničkom interesu za stvaranje poboljšanih mehanizama za učinkovitu suradnju između nadležnih agencija za provedbu zakona;

potvrđujući da je Europska unija dodijelila Europskom policijskom uredu (Europolu) vodeću ulogu tijela EU-a za provedbu zakona koje podržava borbu protiv organiziranog kriminala i drugih oblika teškog kriminala i nastojeći dosegnuti operativno nadopunjavanje od obostrane koristi SELEC-a i Eurola;

sporazumjele su se kako slijedi:

GLAVA I.

Uspostava, cilj i zadaće

Članak 1. Uspostava

Ovime države članice osnivaju Centar za provedbu zakona u jugoistočnoj Europi (u daljnjem tekstu „SELEC“) kako bi služio kao okvir za suradnju između njihovih nadležnih tijela radi ostvarenja ciljeva SELEC-a.

Članak 2. Cilj

Cilj SELEC-a je, u okviru suradnje među nadležnim tijelima vlasti, pružiti potporu državama članicama i poboljšati koordinaciju u sprečavanju i suzbijanju kriminala, uključujući teški i organizirani kriminal, gdje taj kriminal uključuje ili se čini da uključuje element prekogranične aktivnosti.

Članak 3. Zadaće

U skladu s člankom 2., SELEC ima sljedeće zadaće:

- (a) podupirati istrage i aktivnosti u području suzbijanja kriminala u državama članicama i u skladu s ovom Konvencijom;
- (b) olakšati razmjenu informacija i kriminalističkih obavještajnih podataka te zahtjeva za operativnu pomoć;
- (c) prijaviti i obavijestiti nacionalne središnje točke država članica o vezama između osumnjičenika, kriminalaca ili kaznenih djela koji su povezani s mandatom SELEC-a;
- (d) prikupljati, razvrstavati, analizirati, obrađivati i pružati informacije i kriminalističke obavještajne podatke;
- (e) osigurati stratešku analizu i izraditi procjene prijetnji koje su u vezi s ciljem SELEC-a;
- (f) osnovati, voditi i održavati računalni informacijski sustav;
- (g) djelovati kao depozitar dobre prakse u metodama i tehnikama provedbe zakona te iste promicati putem višenacionalne izobrazbe i konferencija u korist država članica;
- (h) preuzimati druge zadaće u skladu s ciljem ove Konvencije, nakon odluke Vijeća.

Članak 4. Definicije

U svrhu ove Konvencije:

- (a) „SECI Centar“ znači Regionalni centar za suzbijanje prekograničnog kriminala Inicijative za suradnju u jugoistočnoj Europi koji je osnovan Ugovorom o suradnji u sprečavanju i suzbijanju prekograničnog kriminala, sastavljenim u Bukureštu, Rumunjska 26. svibnja 1999. godine;
- (b) „Provedba zakona“ odnosi se na sve aktivnosti usmjerene na sprječavanje i suzbijanje kriminala. Ona uključuje, ali nije ograničena na, rad carinskih, policijskih i graničnih službi gdje taj rad potpada pod mandat SELEC-a;
- (c) „Nadležno tijelo“ znači bilo koje postojeće tijelo javne vlasti u državi članici ili operativnome partneru koje je odgovorno za provedbu zakona prema nacionalnom pravu;
- (d) „Višeagencijski“ znači kombinaciju različitih nadležnih tijela koja su uključena u isti pothvat. Konkretno u ovoj Konvenciji, to znači kombinaciju granične službe, policije, carine i drugih nadležnih tijela;
- (e) „Teški kriminal“ znači ponašanje koje predstavlja kazneno djelo kažnjivo najvećom kaznom oduzimanja slobode od najmanje četiri godine ili težom kaznom;
- (f) „Organizirani kriminal“ znači bilo koji oblik kriminala koji počini organizirana skupina od tri ili više osoba, koja postoji određeno vrijeme i usklađeno djeluje s ciljem počinjenja jednog ili više teških kriminala ili kaznenih djela;
- (g) „Prekogranična aktivnost“ znači bilo koju protuzakonitu aktivnost koja se počini ili se namjerava počinuti na državnom području više od jedne države članice;
- (h) „Osoba“ znači bilo koju fizičku ili pravnu osobu;
- (i) „Osobni podaci“ znači sve informacije koje se odnose na identificiranu fizičku osobu ili onu koja se može identificirati („subjekt podatka“);
- (j) „Obrada“ osobnih podataka (obrada) znači svaku radnju ili skupinu radnji koje se izvršavaju nad osobnim podacima, kao što je prikupljanje, snimanje, organiziranje, spremanje, usvajanje ili izmjena, povlačenje, uvid, korištenje, otkrivanje putem prijenosa, objavljivanje ili na drugi način učinjenih dostupnim, svrstavanje ili kombiniranje, blokiranje, brisanje ili uništavanje kao i prijenos osobnih podataka preko državnih granica;
- (k) „Načelo poslovne ili službene potrebe“ znači da primatelj podataka ili informacija tu informaciju treba znati zbog posebne i ovlaštene potrebe

osnovane pozivanjem na njegovo ili njezino radno mjesto, ulogu, službu ili zadaću;

- (1) „Treća strana“ znači državu ili međunarodnu organizaciju ili tijelo koje nije država članica, operativni partner ili promatrač.

GLAVA II. Pravni status i ustroj

Članak 5. Pravni status

- (1) SELEC ima međunarodnopravnu osobnost.
- (2) SELEC u svakoj državi članici ima pravnu i ugovornu sposobnost prema nacionalnom pravu te države članice.
- (3) Posebice, ima sposobnost:
 - (a) sklapati ugovore;
 - (b) stjecati i raspolagati pokretnom i nepokretnom imovinom;
 - (c) biti stranka u pravnim postupcima.

Članak 6. Povlastice i imuniteti

- (1) SELEC, predstavnici država članica, službenici za vezu, glavni ravnatelj, ravnatelji, osoblje SELEC-a te predstavnici operativnih partnera uživaju povlastice i imunitete koji su neophodni u obavljanju njihovih zadaća, u skladu s Protokolom kojeg će sklopiti države članice.
- (2) SELEC će s državom domaćinom sklopiti sporazum o sjedištu.

Članak 7. Tijela SELEC-a

Tijela SELEC-a su:

- (a) Vijeće;
- (b) Tajništvo.

Članak 8. Vijeće

- (1) Vijeće je najviše tijelo SELEC-a koje donosi odluke.

- (2) Vijeće se sastoji od jednog predstavnika s njegovim ili njezinim zamjenikom koje određuje svaka država članica. Svaki predstavnik može biti u pratnji izaslanstva.
- (3) Članovi Vijeća su visoki dužnosnici koji imaju ovlasti djelovati u ime njihovih država. Kada član Vijeća ne može prisustvovati sastanku, njega ili nju zamjenjuje njegov ili njezin zamjenik.
- (4) Vijeće ima predsjedatelja koji se bira godišnjom izmjenom po abecednom redu između država članica.
- (5) Svaka država članica u Vijeću ima jedan glas.
- (6) Vijeće se sastaje najmanje jedan put godišnje.
- (7) Vijeće ima sljedeće zadaće:
 - (a) odobriti strateški plan i godišnji akcijski plan SELEC-a;
 - (b) jednom godišnje odobriti proračun SELEC-a te odrediti financijske doprinose država članica;
 - (c) odobriti zadaće SELEC-a, različite od onih koje su utvrđene člankom 3. ove Konvencije;
 - (d) izabrati i smijeniti glavnog ravnatelja i ravnatelje, te odrediti uvjete njihovog zapošljavanja u skladu s ovom Konvencijom;
 - (e) donijeti Sigurnosni priručnik;
 - (f) imenovati službenika za zaštitu podataka, koji je član SELEC-ova osoblja;
 - (g) imenovati vanjske revizore financijskoga poslovanja SELEC-a u skladu s ovom Konvencijom;
 - (h) odobriti godišnji izvještaj SELEC-a;
 - (i) ovlastiti glavnoga ravnatelja da pregovara sporazume, uključujući memorandume o suglasnosti, s državom domaćinom ili trećim strankama te, po potrebi, za utvrđivanje pregovaračkih stajališta;
 - (j) odobriti sklapanje sporazuma, uključujući memorandume o suglasnosti, s državom domaćinom ili trećim strankama;
 - (k) uspostaviti kriterije za prijem u novo članstvo SELEC-a;
 - (l) odobriti zahtjeve za članstvo država i njihovo primanje u SELEC;
 - (m) odobriti zahtjeve bilo koje treće strane za statusom promatrača ili operativnoga partnera;

- (n) donijeti vlastita pravila postupanja, kao i pravila postupanja i propise koji su neophodni za pravilnu primjenu ove Konvencije, uključujući Smjernice za promatrače;
- (o) djelovati u skladu s drugim zadaćama kako je određeno na drugim mjestima u ovoj Konvenciji.

(8) Pri obavljanju gore utvrđenih zadaća iz točaka a, b, c, e, i, j, k, l, m i n stavka 7., Vijeće odlučuje konsenzusom svih država članica. Pri obavljanju svih drugih zadaća, Vijeće donosi odluke dvotrećinskom većinom svih država članica, osim ukoliko je ovom Konvencijom drukčije određeno.

(9) Vijeće može osnovati odbore i radne skupine koje mu pomažu u radu.

Članak 9. Tajništvo

(1) Tajništvo se sastoji od:

- (a) glavnoga ravnatelja;
- (b) ravnatelja;
- (c) osoblja SELEC-a.

(2) Pri obavljanju njihovih dužnosti, glavni ravnatelj, ravnatelji i osoblje SELEC-a neće tražiti, primati niti slijediti upute od bilo koje vlade ili od bilo kojeg drugog tijela koje nije dio SELEC-a.

(3) Svaka se država članica obvezuje da će poštivati isključivo međunarodnu prirodu odgovornosti koje imaju glavni ravnatelj, ravnatelji i osoblje SELEC-a, te neće nastojati na njih utjecati u obavljanju njihovih dužnosti.

Članak 10. Glavni ravnatelj

(1) Na čelu je SELEC-a glavni ravnatelj koji djeluje kao njegov glavni izvršni službenik i pravni zastupnik.

(2) Glavni ravnatelj se bira na period od 4 godine. Glavni ravnatelj može biti ponovo izabran samo jedan put.

(3) Glavni ravnatelj je državljanin jedne od država članica i bira ga Vijeće na temelju provedenog otvorenog i javnog postupka.

(4) Glavni ravnatelj odgovoran je Vijeću u pogledu obavljanja njegovih ili njezinih dužnosti.

(5) Glavni ravnatelj odgovoran je za:

- (a) učinkovito upravljanje SELEC-om;
- (b) pripremu i provedbu strateškog plana, godišnjeg akcijskog plana i proračuna;
- (c) pripremu i podnošenje Vijeću godišnjeg izvještaja;
- (d) promicanje i razvoj odnosa s državama članicama i trećim stranama;
- (e) pregovaranje o i sklapanje sporazuma o prihvaćanju ostalih prihoda kako je navedeno u članku 36. stavku 2.;
- (f) izradu nacрта i predlaganje pravila postupanja i propisa koji su neophodni za pravilnu primjenu ove Konvencije;
- (g) predstavljanje SELEC-a i njegovih interesa;
- (h) određivanje ravnatelja koji će nastupati u njegovo ili njezino ime u slučaju odsutnosti ili nesposobnosti obavljanja dužnosti;
- (i) obavljanje ostalih potrebnih zadataka u skladu s odredbama ove Konvencije.

Članak 11. Ravnatelji

- (1) Glavnom ravnatelju u radu pomaže jedan ili više ravnatelja. Vijeće određuje broj, zadatke, te uloge ravnatelja.
- (2) Ravnatelji se biraju za razdoblje od 3 godine. Ravnatelji mogu biti ponovo izabrani samo jedan put.
- (3) Svaki ravnatelj mora biti državljanin jedne od država članica, i bira ga Vijeće na temelju provedenog otvorenog i javnog postupka.
- (4) Ravnatelji su odgovorni glavnom ravnatelju u pogledu zadataka koje su im dodijeljene.

Članak 12. Osoblje SELEC-a

- (1) Osoblje SELEC-a sastoji se od svih osoba koje rade pod vodstvom i nadzorom glavnog ravnatelja i ostalih ravnatelja.
- (2) Osoblje SELEC-a sastoji se od državljana država članica, vodeći računa o odgovarajućoj zastupljenosti svih država članica.
- (3) Pravilnik za osoblje uključuje pravila, načela i postupke za odabir osoblja, njihovo zapošljavanje, klasifikaciju radnih mjesta kao i za učinkovit rad Tajništva SELEC-a radi postizanja cilja ove Konvencije.

Članak 13.
Nacionalne jedinice

- (1) Države članice osnivaju nacionalne jedinice u svrhu provedbe cilja ove Konvencije.
- (2) Nacionalne jedinice se sastoje od:
 - (a) službenika za vezu;
 - (b) nacionalnih središnjih točaka.

Članak 14.
Službenici za vezu

- (1) U svrhu policijske i carinske suradnje, svaka država članica imenuje najmanje jednog službenika za vezu koji radi u sjedištu SELEC-a.
- (2) SELEC-ovi službenici za vezu rade u skladu s nacionalnim pravom država članica koje su ih imenovale te zastupaju interese tih država i svih njihovih nacionalnih nadležnih tijela u jednakoj mjeri. Međutim, njihov je rad također uređen odredbama ove Konvencije. SELEC-ovi službenici za vezu moraju poštivati unutarnja pravila i propise SELEC-a.
- (3) Svi SELEC-ovi službenici za vezu moraju, prije imenovanja, proći postupak sigurnosne provjere u skladu s nacionalnim zahtjevima kojima se dopušta pristup informacijama tijela vlasti za provedbu zakona i/ili klasificiranim informacijama.
- (4) U slučajevima kad ponašanje službenika za vezu ne zadovoljava uvjete ove Konvencije, glavni ravnatelj može o tome izvijestiti državu članicu koja ga je imenovala.
- (5) SELEC-ovi službenici za vezu ne mogu predstavljati njihove države članice kao zastupnici u Vijeću.
- (6) Država članica snosi sve troškove proizašle iz imenovanja i zapošljavanja SELEC-ovih službenika za vezu. Međutim, SELEC tom službeniku za vezu iz svog proračuna osigurava prihvatljive i odgovarajuće urede i uredsku opremu koji su potrebni za obavljanje njegove ili njezine dužnosti.

Članak 15.
Nacionalne središnje točke

- (1) U promicanju ciljeva ove Konvencije, države članice osnivaju ili određuju višeagencijski ured ili jedinicu, koja će služiti kao nacionalna središnja točka.
- (2) Nacionalna središnja točka djeluje kao jedina kontaktna točka države članice za komunikaciju sa SELEC-om, putem službenika za vezu predmetne države članice.
- (3) Nacionalna središnja točka ima odgovarajuće osoblje te joj je osigurana sva potrebna oprema, sredstva i uredi koji su potrebni za obavljanje njezinih zadaća kako su određene ovom Konvencijom.

(4) Nacionalna središnja točka i njezino osoblje ravnaju se prema nacionalnom pravu, ali će obavljati njihove poslove u odnosu na ovu Konvenciju, te će se osobito pridržavati načela zaštite podataka sadržanih u ovoj Konvenciji.

Članak 16.
Sjedište i službeni jezik

- (1) SELEC je smješten u Bukureštu, Rumunjska.
- (2) Država domaćin besplatno osigurava zgradu te tekuće i kapitalne popravke infrastrukture SELEC-a.
- (3) Službeni jezik SELEC-a je engleski.

GLAVA III.
Informacijski sustav i sigurnost podataka

Članak 17.
Sustav za razmjenu informacija

- (1) U skladu sa stadijima koji su utvrđene u ovome članku, SELEC će osnovati i održavati računalni informacijski sustav za čuvanje i obradu podataka potrebnih u obavljanju njegovih zadaća kako su navedene u članku 3. Taj informacijski sustav uključuje bilo koji samostalni hardver ili neovisno strukturiranu bazu podataka te svu informacijsku tehnologiju pod nadzorom SELEC-a.
- (2) SELEC obavlja razmjene informacija i zajedničke operacije, u kojima SELEC putem službenika za vezu i predstavnika operativnih partnera prikuplja podatke, uključujući i osobne podatke.
- (3) Na svim razinama, SELEC-ova obrada osobnih podataka podliježe ograničenjima koje određuje pružatelj podataka i podliježe postupcima zaštite podataka razvijenima kako bi se udovoljilo načelima zaštite podataka utvrđenima u ovoj Konvenciji i drugim primjenjivim uvjetima nacionalnog prava te dvostranim i mnogostranim međunarodnim sporazumima. SELEC pohranjuje podatke tako da je moguće odrediti koja je država članica, operativni partner, promatrač ili treća stranka te podatke poslala ili su dobiveni analizom koju je proveo SELEC.
- (4) Naknadno, u mjeri u kojoj su se, te nakon što su se uspostavili i proveli postupci za zaštitu osobnih podataka primjereni zadaći, SELEC nastavlja unaprjeđivati njegovu sposobnost pomaganja državama članicama i unaprjeđivati koordinaciju između njih u sprečavanju, otkrivanju i suzbijanju teškog prekograničnog kriminala održavanjem i razvrstavanjem takvih osobnih podataka za uporabu u daljnjim istragama koje uključuju SELEC i njegove operativne partnere.
- (5) Slijedom toga, u mjeri u kojoj su i nakon što su se uspostavili i proveli postupci za zaštitu podataka primjereni toj zadaći, SELEC će osnovati i održavati jednu ili više baza podataka koje mogu uključivati osobne i neosobne podatke. Ti se podaci prikupljaju u

kontekstu sudjelovanja SELEC-a u konkretnim slučajevima, kao i izvan konteksta konkretnih slučajeva kako ih dostavljaju države članice, operativni partneri, promatrači i treće strane, a SELEC te podatke analizira i obrađuje u nastojanju da se spriječi, otkrije i istraži teški prekogranični kriminal.

(6) Glavni ravnatelj ili bilo koja država članica mogu Vijeću predložiti da je primjereno prijeći na sljedeći stadij prema ovome članku. Pri ocjeni takvog prijedloga, Vijeće se savjetuje sa Zajedničkim nadzornim tijelom. Vijeće mora odlučiti konsenzusom o tome jesu li se proveli postupci za zaštitu podataka primjereni toj zadaći i hoće li se prijeći na sljedeći stadij, kako je opisano u stavcima 4. i 5.

(7) Informacijski sustav kojim SELEC upravlja ni pod kojim uvjetima ne smije biti povezan s drugim automatskim sustavima za obradu podataka, osim automatskih sustava za obradu podataka nacionalnih jedinica.

(8) SELEC je odgovoran za i poduzima sve potrebne mjere za pravilan rad i primjenu informacijskog sustava u tehničkom i operativnom pogledu.

Članak 18.

Uporaba informacijskog sustava

(1) Pri uspostavi i održavanju informacijskog sustava, SELEC i države članice poduzimaju potrebne i primjerene tehničke mjere predostrožnosti, te uspostavljaju kontrolne mehanizme, kako bi osigurali cjelovitost i primjerenost podataka u informacijskom sustavu te kako bi spriječili njihovo nehotično ili neovlašteno brisanje, izmjenu ili širenje te spriječili neovlašten pristup.

(2) Da bi ispunio svoje zadaće, informacijski sustav SELEC-a dostupan je prema načelu „poslovne ili službene potrebe“:

- (a) nacionalnim središnjim točkama;
- (b) službenicima za vezu;
- (c) ravnateljima i osoblju SELEC-a koje je ovlastio glavni ravnatelj;
- (d) operativnim partnerima koji su ovlaštteni na temelju svojih sporazuma o suradnji.

(3) Podatke u informacijski sustav SELEC-a mogu unositi samo:

- (a) nacionalne središnje točke;
- (b) službenici za vezu;
- (c) ravnatelji i osoblje SELEC-a koje je ovlastio glavni ravnatelj;
- (d) operativni partneri koji su ovlaštteni na temelju svojih sporazuma o suradnji.

(4) Pristup ili unos podataka u informacijski sustav SELEC-a dozvoljen je samo osobama koje su za to primjereno osposobljene i ovlaštene, kako je utvrđeno u pravilima postupanja.

(5) Sve pojedinosti u vezi s unosom, pretraživanjem ili pristupom podacima evidentiraju se u preglednom obliku. Takve pojedinosti pohranjuju se u informacijski sustav SELEC-a, u skladu s pravilima o zaštiti podataka kako su određena ovom Konvencijom.

Članak 19. Sigurnost podataka

(1) SELEC poduzima potrebne tehničke i organizacijske mjere kako bi osigurao provedbu ove Konvencije u pogledu sigurnosti podataka.

(2) U pogledu automatske obrade podataka u SELEC-u, svaka država članica i SELEC provode mjere koje imaju za cilj:

- (a) onemogućiti pristup neovlaštenim osobama opremi za obradu podataka koja se koristi za obradu osobnih podataka (kontrola pristupa opremi);
- (b) spriječiti neovlašteno čitanje, umnožavanje, izmjenu ili uklanjanje podatkovnih medija (kontrola podatkovnih medija);
- (c) spriječiti neovlašteni unos podatka i neovlašteni pregled, izmjenu ili brisanje pohranjenih osobnih podataka (kontrola pohrane);
- (d) spriječiti uporabu automatskih sustava za obradu podataka od strane neovlaštenih osoba koje koriste opremu za slanje podataka (kontrola korisnika);
- (e) osigurati da osobe koje su ovlaštene za uporabu automatskog sustava za obradu podataka imaju pristup samo podacima obuhvaćenima njihovom dozvolom pristupa (kontrola pristupa podacima);
- (f) osigurati da je moguće provjeriti i ustanoviti kojim tijelima se osobni podaci mogu dostaviti uporabom opreme za slanje podataka (kontrola slanja);
- (g) osigurati da je moguće provjeriti i ustanoviti koji osobni podaci su uneseni u automatske sustave podataka ili sustave za obradu podataka te tko i kada je taj unos izvršio (kontrola unosa);
- (h) spriječiti neovlašteno čitanje, umnožavanje, izmjenu ili brisanje osobnih podataka za vrijeme prijenosa osobnih podataka ili za vrijeme prijenosa podatkovnih medija (kontrola prijenosa);
- (i) osigurati da se uspostavljeni sustavi, u slučaju prekida, mogu odmah ponovno uspostaviti (oporavak);
- (j) osigurati ispravan rad sustava, trenutno obavješćivanje o pogreškama koje se pojave u radu sustava (pouzdanost) te onemogućiti narušavanje cjelovitosti pohranjenih podataka uslijed pogrešaka u radu sustava (cjelovitost).

Članak 20.
Klasificirane informacije

- (1) Sve informacije koje se obrade u SELEC-u ili putem njega, osim informacija koje su izričito označene ili jasno prepoznatljive kao javne informacije, predmetom su osnovne razine zaštite u SELEC-ovoj organizaciji kao i u državama članicama. Informacije koje su predmetom samo osnovne razine zaštite nije potrebno posebno označiti oznakom sigurnosne razine SELEC-a, ali se određuju kao podaci SELEC-a.
- (2) SELEC i države članice poduzimaju odgovarajuće mjere radi zaštite klasificiranih informacija u skladu sa zahtjevima povjerljivosti koje navede stranka koja te informacije pruža na temelju ove Konvencije.
- (3) Niti jedna osoba nema pristup klasificiranim informacijama osim uz prethodnu sigurnosnu provjeru i odobrenje njezinih nacionalnih vlasti u skladu s njezinim nacionalnim pravom. Odgovarajuće tijelo prema nacionalnim odredbama obavještava SELEC samo o rezultatima sigurnosne provjere, koji su za SELEC obvezujući.
- (4) Vijeće usvaja Sigurnosni priručnik koji, između ostalog, sadrži podrobna pravila o sigurnosnim mjerama koje će se primjenjivati u SELEC-ovoj organizaciji kao i sigurnosni paket za svaku klasifikacijsku razinu.
- (5) SELEC koristi sljedeće klasifikacijske razine: „ograničeno“, „povjerljivo“, „tajno“ i „vrlo tajno“.
- (6) Odgovornost za praktičnu provedbu sigurnosnih mjera utvrđenih Sigurnosnim priručnikom snosi glavni ravnatelj.

GLAVA IV.
Zaštita osobnih podataka

Članak 21.
Osobni podaci

- (1) Osobni podaci u informacijskom sustavu SELEC-a odnose se na osobe koje su, u skladu s nacionalnim pravom dotične države članice, predmetom istraga povezanih s kaznenim djelima u pogledu kojih je SELEC nadležan ili su za takva kaznena djela osuđene;
- (2) Podaci povezani s osobama iz stavka 1. mogu sadržavati samo sljedeće pojedinosti:
 - (a) prezime, djevojačko prezime, ime i bilo kakve pseudonime ili lažna imena;
 - (b) datum i mjesto rođenja;
 - (c) državljanstvo;
 - (d) spol;

- (e) prebivalište, zanimanje i boravište dotične osobe;
 - (f) podatke o vozačkim dozvolama, osobnim ispravama i putovnici; i
 - (g) prema potrebi i dostupnosti, ostale osobine koje mogu pomoći u utvrđivanju, uključujući bilo kakva nepromjenjiva posebna objektivna fizička obilježja, te osobni ili drugi identifikacijski broj.
- (3) Pored podataka iz stavka 2., informacijski sustav SELEC-a također se može koristiti za obradu sljedećih podataka u vezi s osobama iz stavka 1.:
- (a) počinjena kaznena djela, vrijeme, mjesto i način njihova počinjenja;
 - (b) sredstva korištena ili koja bi se mogla koristiti u počinjenju kaznenih djela;
 - (c) sumnje u članstvo u zločinačkim organizacijama;
 - (d) osude kada su povezane s kaznenim djelima za koja je SELEC nadležan.
- (4) Informacijski sustav SELEC-a također može sadržavati:
- (a) podatke iz stavka 3. točaka (a) i (b) kad oni još ničim ne upućuju na određene fizičke osobe;
 - (b) bilo koji drugi podatak u vezi s ili koji može biti u vezi s kaznenim slučajevima koji nisu u izravnoj vezi s fizičkim osobama, uključujući robu, prijevozna sredstva, poslove, bilo koja tehnička sredstva koja se koriste za njihovo utvrđivanje.

Članak 22.

Standardi za zaštitu osobnih podataka

SELEC primjenjuje načela zaštite osobnih podataka koje obrađuje, uzimajući u obzir razinu zaštite i upravnu praksu u državama članicama i u skladu sa standardima i načelima iz Konvencije Vijeća Europe za zaštitu osoba glede automatizirane obrade osobnih podataka od 28. siječnja 1981. i Preporuke br. R (87) 15 Odbora ministara Vijeća Europe od 17. rujna 1987. SELEC se pridržava tih načela u obradi osobnih podataka, uključujući neautomatizirane podatke pohranjene u obliku datoteka.

Članak 23.

Načela zaštite osobnih podataka

- (1) Prema ovoj Konvenciji, bilo koji osobni podatak će se obraditi samo u skladu sa sljedećim načelima i provedbenim mehanizmima:
- (a) osobni se podaci obrađuju samo u svrhu ciljeva i zadaća SELEC-a;
 - (b) obrada osobnih podataka mora biti poštena i zakonita;

- (c) obrada osobnih podataka mora biti primjerena, odgovarajuća, te ne smije nadilaziti svrhe u koje su se ti podaci početno prikupili;
- (d) podaci moraju biti točni i ažurirani, te se mora održati kakvoća i cjelovitost osobnih podataka koje SELEC obrađuje;
- (e) treba poduzeti tehničke i organizacijske sigurnosne mjere koje odgovaraju rizicima koje obrada podataka predstavlja;
- (f) SELEC obrađuje osobne podatke na način koji je transparentan i sukladan cilju i zadaćama provedbe zakona;
- (g) bilo koji subjekt podatka ima pristup njegovim ili njezinim osobnim podacima u posjedu SELEC-a, u skladu sa SELEC-ovim ciljem i zadaćama provedbe zakona;
- (h) bilo koji subjekt podatka ima pravo na odgovarajući pravni lijek u vezi s njegovim ili njezinim osobnim podacima u posjedu SELEC-a, u skladu sa SELEC-ovim ciljem i zadaćama provedbe zakona;
- (i) obrada osobnih podataka koju obavlja SELEC podliježe nadzoru neovisnog Zajedničkog nadzornog tijela osnovanog u skladu s ovom Konvencijom.

(2) Osobni podaci koji otkrivaju rasno ili etničko podrijetlo, političke stavove, vjerska ili druga uvjerenja, članstvo u sindikalnim organizacijama, te podaci o zdravlju ili spolnom životu, ne mogu se obrađivati, osim ukoliko su strogo neophodni u svrhu konkretnih istraga u koje je SELEC uključen te samo ukoliko je prijenos tih podataka SELEC-u u svrhu takve obrade dopušten nacionalnim pravom strane koja ih prenosi. Zabranjeno je odabrati određenu skupinu osoba samo na temelju podataka navedenih u prvoj rečenici ovoga stavka.

Članak 24.

Ograničenja pristupa određenim stavkama osobnih podataka

- (1) Tijelo koje osobne podatke osigurava može drugim državama članicama ili operativnim partnerima ograničiti pristup pojedinim stavkama tih podataka.
- (2) Država članica ili operativni partner koji te podatke prenose ili SELEC mogu se s primateljem kojemu su podaci namijenjeni dogovoriti o ograničenjima u vezi s uporabom podataka i prijenosom trećim stranama. Ta ograničenja trebaju uključivati mjere s ciljem osiguranja sukladnosti s načelima utvrđenima člankom 23. ove Konvencije.

Članak 25.

Vremenska ograničenja za pohranu i brisanje osobnih podataka

- (1) Osobni se podaci u informacijskom sustavu čuvaju samo toliko dugo koliko je potrebno za ispunjenje SELEC-ovih zadaća. Potreba za daljnjom pohranom preispituje se najkasnije u roku od tri godine od unosa tih osobnih podataka. Preispitivanje osobnih podataka pohranjenih u informacijskom sustavu kao i njihovo brisanje obavlja stranka koja je te podatke unijela.

(2) Za vrijeme preispitivanja, stranka iz stavka 1. koja je osobne podatke unijela može odlučiti o njihovoj daljnjoj pohrani do sljedećega preispitivanja, koje slijedi nakon još jednog razdoblja od tri godine, ukoliko je to još uvijek potrebno u svrhu obrade tih podataka. Ako se ne donese nikakva odluka o daljnjoj pohrani osobnih podataka, SELEC te osobne podatke automatski briše. SELEC će stranke koje su te podatke unijele tri mjeseca unaprijed automatski obavijestiti o isteku roka za preispitivanje pohrane tih osobnih podataka.

Članak 26. Daljnja obrada

(1) Ništa u ovoj Konvenciji ne predstavlja zabranu ili ograničenje suradnje ili razmjene podataka među tijelima za provedbu zakona u konkretnim slučajevima i istragama, pod uvjetom da takva suradnja i razmjena podataka uključuje mjere radi osiguranja sukladnosti s načelima iz članka 23. ove Konvencije. Međutim, prijenos podataka ne može se izvršiti ako bi njihova uporaba mogla narušiti ljudska prava ili načela vladavine prava.

(2) Daljnja obrada osobnih podataka u svrhe drugačije od onih radi kojih su se ti podaci dostavili, dopuštena je samo ukoliko:

- (a) to nije nespojivo sa svrhom u koju je SELEC te podatke obradio; i
- (b) su država članica ili operativni partner, koji su te osobne podatke unijeli, dali svoj prethodni pristanak; i
- (c) je tijelo koje te podatke obrađuje odgovorno za sprječavanje, istragu, otkrivanje ili procesuiranje kaznenih djela u okviru ovog cilja SELEC-a.

(3) Prijenos osobnih podataka trećim stranama ili promatračima može se izvršiti samo uz prethodni pristanak stranke koja je te podatke unijela u skladu s njezinim zakonodavstvom i njezinom procjenom odgovarajuće razine zaštite osobnih podataka kod treće stranke ili promatrača koji ih primaju.

Članak 27. Službenik za zaštitu podataka

(1) Vijeće imenuje službenika za zaštitu podataka, koji osigurava sukladnost s odredbama ove Konvencije u vezi sa zaštitom osobnih podataka, u skladu sa zadaćama koje mu je dodijelilo Vijeće. Pri dodjeli tih zadaća, Vijeće osigurava da su zadaće službenika za zaštitu podataka određene tako da se ne preklapaju s djelovanjem SELEC-a u konkretnim slučajevima. U obavljanju njegovih ili njezinih dužnosti, službenik za zaštitu podataka djeluje neovisno.

(2) Službenik za zaštitu podataka posebice obavlja sljedeće zadaće pod izravnom ovlašću Vijeća:

- (a) osigurava, djelujući neovisno, zakonitost i sukladnost s odredbama ove Konvencije u pogledu obrade osobnih podataka;
- (b) osigurava vođenje pisane evidencije prijenaosa i primitaka osobnih podataka u skladu s ovom Konvencijom;

- (c) osigurava da su subjekt podataka, na njihov zahtjev, obaviješteni o pravima koja imaju temeljem ove Konvencije;
 - (d) surađuje s osobljem SELEC-a odgovornim za postupke, obuku i savjetovanje u vezi s obradom podataka;
 - (e) surađuje sa Zajedničkim nadzornim tijelom.
- (3) U obavljanju zadaća iz stavka 2., službenik za zaštitu podataka ne smije primati nikakve upute od glavnog ravnatelja, ravnatelja, država članica ili iz bilo kojeg drugog izvora. U obavljanju tih zadaća, službenik za zaštitu podataka ima pristup svim podacima koje SELEC obrađuje kao i svim SELEC-ovim uredima.
- (4) Ukoliko službenik za zaštitu podataka smatra da se ne poštuju odredbe ove Konvencije u vezi s obradom osobnih podataka, o tome obavještava glavnog ravnatelja i Vijeće. Ukoliko glavni ravnatelj to nepoštivanje obrade ne riješi u roku od 60 dana, službenik za zaštitu podataka o tome obavještava Vijeće, koje potvrđuje primitak tih informacija. Ukoliko Vijeće to nepoštivanje obrade ne riješi u razumnom roku, službenik za zaštitu podataka to pitanje upućuje Zajedničkom nadzornom tijelu.
- (5) Vijeće može službeniku za zaštitu podataka odrediti dodatna zaduženja. Vijeće usvaja daljnja provedbena pravila koja se odnose na službenika za zaštitu podataka. Provedbena se pravila poglavito odnose na odabir i smjenjivanje, zadaće, obveze i ovlasti službenika za zaštitu podataka.

Članak 28.

Odgovornost u području zaštite osobnih podataka

- (1) Odgovornost za osobne podatke obrađene u SELEC-u, posebice obzirom na zakonitost prikupljanja, prijenosa SELEC-u i unosa osobnih podataka, kao i za njihovu točnost, ažuriranost te za provjeru rokova za njihovo pohranjivanje, snosi:
- (a) država članica, operativni partner, promatrač ili treća strana koji su te osobne podatke učinili dostupnima;
 - (b) SELEC, za podatke koji su proizašli iz analiza vođenih od strane SELEC-a.
- (2) Povrh toga, SELEC je odgovoran za sve osobne podatke koje obrađuje, od trenutka kada takve podatke uključi u jednu od svojih automatskih ili neautomatskih datoteka. Za zaštitu osobnih podataka koji su dostavljeni SELEC-u, ali još nisu uključeni u informacijski sustav SELEC-a, i dalje je odgovorna stranka koja je te podatke poslala. Međutim, odgovornost SELEC-a je osigurati da, dok se ne uključe u SELEC-ove datoteke, pristup takvim osobnim podacima imaju samo ovlašteni službenici SELEC-a u svrhu utvrđivanja mogućnosti njihove obrade u SELEC-u i ovlašteni službenici stranke koja je te podatke dostavila. Ako SELEC, nakon procjene, ima razloga smatrati da su dostavljeni podaci netočni ili zastarjeli o tome obavještava stranku koja ih je dostavila.

Članak 29.

Odgovornost za neovlaštenu ili pogrešnu obradu podataka

- (1) Svaka je država članica odgovorna, u skladu sa svojim nacionalnim pravom, za bilo koju štetu koja je pojedincu nanesene kao posljedica pravnih ili činjeničnih pogrešaka u osobnim podacima. Samo država članica na čijem je državnom području ta šteta nastala može biti predmetom odštetnog zahtjeva u ime oštećene stranke. Država članica ne smije se izjasniti da je druga država članica poslala netočne podatke kako bi na taj način izbjegla odgovornost prema njezinom nacionalnom zakonodavstvu u odnosu na oštećenu stranku.
- (2) Ako je do tih pravnih ili činjeničnih pogrešaka došlo zbog pogrešno dostavljenih podataka ili zbog nepoštivanja obveza prema ovoj Konvenciji od jedne ili više država članica ili zbog neovlaštene ili pogrešne pohrane ili obrade od strane SELEC-a, dotična država ili države članice ili SELEC obvezni su, prema tomu, državu članicu koja je oštećenom pojedincu nadoknadila štetu, na zahtjev, oštećetiti u iznosu te naknade, osim ukoliko je ista dotične podatke koristila protivno ovoj Konvenciji. Ovo se načelo također može primijeniti na operativne partnere ako je tako predviđeno u njihovim ugovorima o suradnji sa SELEC-om.
- (3) Svi sporovi u vezi s načelom ili iznosom naknade štete između država članica koje su oštećetile oštećenog pojedinca i SELEC-a ili druge države članice upućuju se Vijeću, u skladu s člankom 50.

Članak 30.

Pravo pristupa subjekta podatka

- (1) Svaka osoba ima pravo u razumnim vremenskim razmacima dobiti potvrdu da li se osobni podaci koji se odnose na njega ili nju obrađuju od strane SELEC-a, te da mu se ili da joj se ti podaci dostave u razumljivom obliku.
- (2) Svaka osoba koja želi ostvariti njegova ili njezina prava prema ovom članku može besplatno uputiti takav zahtjev SELEC-u.
- (3) SELEC će na takav zahtjev odgovoriti bez nepotrebnog odlaganja i u svakom slučaju u roku od tri mjeseca od njegovog primitka u SELEC-u u skladu s ovim člankom.
- (4) Pružanje informacija kao odgovor na zahtjev iz stavka 1. odbija se u mjeri u kojoj je to potrebno:
 - (a) da bi se SELEC-u omogućilo da primjereno ispuni svoje ciljeve i zadaće;
 - (b) radi zaštite sigurnosti i javnoga reda u državama članicama ili da bi se spriječio kriminal;
 - (c) radi zaštite prava i/ili sloboda trećih osoba; ili
 - (d) da bi se zajamčilo da se neće ugroziti niti jedna nacionalna ili zajednička istraga.
- (5) Pri procjeni primjenjivosti izuzetaka iz stavka 4., moraju se uzeti u obzir interesi dotične osobe.

(6) Prije nego što donese odluku o odgovoru na zahtjev, SELEC se savjetuje s nadležnim tijelima vlasti za provedbu zakona koja su dotične podatke osigurala. SELEC će odbiti pružanje informacija ukoliko jedno ili više nadležnih tijela za provedbu zakona ili SELEC odluče da se zahtjev mora odbiti prema stavku 4. Tijelo koje o tom odlučuje obavještava SELEC o razlozima svoje odluke.

(7) Ukoliko se pružanje informacija kao odgovor na zahtjev prema stavku 1. odbije, SELEC dotičnu osobu obavještava da je njegov ili njezin zahtjev razmotren i odbijen prema ovoj Konvenciji, ne pružajući pritom nikakve informacije koje bi njemu ili njoj mogle otkriti obrađuje li SELEC osobne podatke koji se na njega ili nju odnose. SELEC evidentira razloge odbijanja zahtjeva.

Članak 31.

Ispravak i brisanje podataka

(1) Bilo koji subjekt podatka ima pravo pisanim putem tražiti od SELEC-a da ispravi ili izbriše netočne podatke koji se na njega ili nju odnose. Ukoliko se, korištenjem ovoga prava ili na neki drugi način, ustanovi da su podaci koje SELEC posjeduje, a koje mu je dostavila treća strana ili su proizašli iz njegove analize netočni ili da su njihov unos ili pohrana protivni ovoj Konvenciji, SELEC će takve podatke ispraviti ili izbrisati.

(2) Ukoliko su netočni podaci poslani drugim odgovarajućim sredstvima ili ukoliko je su pogreške u podacima koje su dostavile države članice ili operativni partneri nastale zbog neispravnog prijenosa podataka ili su ti podaci poslani kršenjem odredaba ove Konvencije ili ukoliko su pogreške nastale kao posljedica unosa, preuzimanja ili pohrane podataka na neispravan način ili ne poštujući odredbe ove Konvencije, SELEC je obvezan te podatke ispraviti ili izbrisati u suradnji s dotičnim državama članicama ili operativnim partnerima.

(3) U slučajevima iz stavaka 1. i 2., smjesta će se obavijestiti države članice ili operativni partneri koji su te podatke primili. Države članice ili operativni partneri koji su primili te podatke također će ih ispraviti ili izbrisati u skladu s primjenjivim pravilima.

(4) Osim kako je navedeno u članku 30. stavcima 4. i 5., SELEC će osobu koja je subjekt podataka obavijestiti, u pisanom obliku i bez nepotrebnog odlaganja te u svakom slučaju u roku od tri mjeseca, da su podaci koji se na njega ili nju odnose ispravljani ili izbrisani.

Članak 32.

Žalbe

(1) U njegovom odgovoru na zahtjev za provjerom, pristupom podacima ili na zahtjev za ispravkom i brisanjem podataka, SELEC će osobu koja je subjekt podataka obavijestiti da on ili ona ima pravo na žalbu Zajedničkom nadzornom tijelu te o vremenskim rokovima za takvu žalbu.

(2) Svaka osoba koja je subjekt podataka ima pravo na žalbu Zajedničkom nadzornom tijelu ukoliko nije zadovoljna SELEC-ovim odgovorom na neki zahtjev ili ukoliko odgovor na zahtjev nije uslijedio u rokovima predviđenim u člancima 30. ili 31. Takvu žalbu treba uložiti unutar 30 dana od datuma primitka odgovora ili po isteku vremenskih rokova iz članka 30. ili 31.

(3) Zajedničko nadzorno tijelo žalbu razmatra i o njoj donosi odluku na svom sljedećem sastanku. Odluka Zajedničkog nadzornog tijela o žalbi konačna je i obvezuje sve stranke u postupku.

(4) Ukoliko se žalba odnosi na odgovor na zahtjev kako je navedeno u člancima 30. ili 31., Zajedničko nadzorno tijelo savjetuje se s nadležnim tijelima za zaštitu podataka u državi članici ili operativnom partneru koji su bili izvor podatka ili u državi članici ili operativnom partneru na koje se to izravno odnosi.

(5) U slučaju da se žalba odnosi na odluku iz članka 30. ili 31. koja se temelji na prigovoru prema članku 30. stavku 4. od SELEC-a, države članice ili operativnog partnera, Zajedničko nadzorno tijelo takve prigovore može odbaciti samo konsenzusom i nakon što je saslušalo SELEC i dotičnu državu članicu ili operativnog partnera. Ako se takav konsenzus ne može postići, Zajedničko nadzorno tijelo obavještava žalitelja o odbijanju njegove žalbe, ne pružajući pritom nikakve informacije koje bi mogle otkriti postojanje bilo kakvih osobnih podataka o žalitelju.

Članak 33. Nacionalni nadzor

(1) Svaka država članica treba osigurati neovisan nacionalni nadzor tako što će, u skladu sa svojim nacionalnim pravom, imenovati tijelo za svoje aktivnosti u području zaštite osobnih podataka u okviru ove Konvencije, uzimajući pri tome u obzir međunarodne standarde i načela zaštite osobnih podataka kako ih je odredilo Vijeće Europe.

(2) Ne dovodeći u pitanje članak 29., države članice moraju svakoj osobi, bez obzira na njezino državljanstvo ili prebivalište, osigurati pravo na pravni lijek za svako kršenje prava koja su mu ili joj zajamčena nacionalnim pravom primjenjivim na odnosnu obradu.

(3) SELEC će poduzeti potrebne mjere kako bi olakšao takav nacionalni nadzor, uključujući i tako što će osigurati pristup odgovarajućim prostorijama službenika za vezu.

(4) Države članice obavještavaju Zajedničko nadzorno tijelo o bilo kojim otkrivenim činjenicama u vezi sa SELEC-om koje se odnose na zaštitu osobnih podataka, a proizašle su iz toga nadzora.

Članak 34. Zajedničko nadzorno tijelo

(1) Kako bi se saslušale žalbe prema članku 32. i preispitali SELEC-ovi postupci i prakse radi osiguranja njihove sukladnosti s odredbama o zaštiti podataka iz ove Konvencije, osniva se neovisno Zajedničko nadzorno tijelo. Zajedničko nadzorno tijelo sastoji se od jednog predstavnika iz svake države članice koji su neovisni u pitanjima zaštite osobnih podataka u skladu s nacionalnim pravom. Zajedničko nadzorno tijelo samo određuje njegova pravila postupanja. U obavljanju svojih dužnosti, članovi Zajedničkog nadzornog tijela ne smiju primati upute od bilo kojeg drugog tijela.

(2) Zajedničko nadzorno tijelo obavlja periodična preispitivanja najmanje jednom godišnje.

(3) SELEC pomaže Zajedničkom nadzornom tijelu u obavljanju njegovih zadaća. Pri tome posebice:

- (a) dostavlja informacije koje Zajedničko nadzorno tijelo zatraži te mu daje pristup svim dokumentima i predmetima kao i svim podacima pohranjenima u SELEC-ovim datotekama;
- (b) osigurava Zajedničkom nadzornom tijelu slobodan pristup u svako vrijeme svim njegovim prostorijama;
- (c) provodi odluke Zajedničkog nadzornog tijela o žalbama.

(4) Ukoliko Zajedničko nadzorno tijelo otkrije bilo kakvo kršenje odredaba ove Konvencije u vezi s pohranom, obradom ili uporabom osobnih podataka, na to će upozoriti glavnog ravnatelja te će od njega zatražiti odgovor u roku koji odredi Zajedničko nadzorno tijelo. Glavni ravnatelj o cijelom postupku izvješćuje Vijeće. Ukoliko Zajedničko nadzorno tijelo nije zadovoljno odgovorom glavnog ravnatelja na njegov zahtjev, ono će taj predmet uputiti Vijeću.

(5) Zajedničko nadzorno tijelo obavještava glavnog ravnatelja i Vijeće o njegovim preispitivanjima te iznosi sve potrebne preporuke u vezi s postupcima i praksom zaštite podataka. Glavni ravnatelj i Vijeće te preporuke uzimaju u obzir i poduzimaju sve potrebne mjere kako bi riješili sve bilo koje probleme u vezi s tim postupcima i praksama.

(6) Zajedničko nadzorno tijelo u redovitim razmacima sastavlja i objavljuje izvješća o svojim aktivnostima.

GLAVA V. Financijske odredbe

Članak 35. Proračun

(1) Proračun SELEC-a donosi se na godišnjoj osnovi. Financijska godina traje od 1. siječnja do 31. prosinca.

(2) U proračunu se utvrđuju ukupni prihodi i ukupni rashodi za određenu godinu. Proračun treba biti uravnotežen, ukupni godišnji prihodi uvijek moraju pokrivati ukupne godišnje rashode.

(3) Vijeće razmatra i odobrava proračun najkasnije do 31. svibnja svake godine. Vijeće može revidirati proračun.

(4) Petogodišnji financijski plan razmatra se i usvaja te se može revidirati zajedno s godišnjim proračunom.

Članak 36. Prihodi

- (1) Proračun se financira iz doprinosa država članica i ostalih prihoda.
- (2) Ostali prihodi mogu uključivati donacije, subvencije ili druga sredstva nacionalnih vlada, međunarodnih organizacija ili iz drugih javnih izvora te, uz prethodno odobrenje Vijeća, iz privatnih izvora.
- (3) Neispunjavanje financijskih obveza bilo koje države članice podnosi se Vijeću na razmatranje.

Članak 37. Vanjska revizija financijskog poslovanja

Financijska dokumentacija SELEC-a, uključujući izvještaje o proračunskim prihodima i rashodima, te bilanca SELEC-ove aktive i pasive, podliježu vanjskoj reviziji financijskog poslovanja.

Članak 38. Financijska pravila i propisi

Financijska pravila i propise razmatra i donosi Vijeće.

GLAVA VI. Sudjelovanje

Članak 39. Članstvo

Članice SELEC-a stranke su ove Konvencije.

Članak 40. Primanje u članstvo

- (1) SELEC je otvoren za primanje u članstvo svakoj državi koja ima posebni interes za suradnju u provedbi zakona u regiji jugoistočne Europe i koja podnese zahtjev za primanje u članstvo, slaže se s ciljem i zadaćama SELEC-a, kako su utvrđeni ovom Konvencijom, te koja zadovoljava kriterije koje je odredilo Vijeće.
- (2) Zahtjev za primanje u članstvo podnosi se na razmatranje i odobrenje Vijeću. Kada dobije odobrenje, Vijeće poziva državu podnositeljicu zahtjeva da pristupi ovoj Konvenciji prema članku 45.

Članak 41. Status operativnog partnera

- (1) Status operativnog partnera u SELEC-u otvoren je, na zahtjev, bilo kojoj državi ili međunarodnoj organizaciji ili tijelu koji izrazi spremnost na suradnju sa SELEC-om, suglasni su pružati potporu SELEC-u, te koji sa SELEC-om potpišu sporazum o suradnji.
- (2) Nakon što Vijeće odluči da podnositelj zahtjeva ispunjava potrebne uvjete za početak pregovora o statusu operativnog partnera, glavni ravnatelj pregovara s tim podnositeljem zahtjeva o sporazumu o suradnji.
- (3) Sporazumom o suradnji utvrđuju se, između ostalog, pravila zaštite osobnih podataka, sigurnosne mjere, financijski odnosi te načini rješavanja sporova između SELEC-a i operativnog partnera. Kada Vijeće odobri nacrt teksta sporazuma o suradnji, glavni ravnatelj ga potpisuje u ime SELEC-a.
- (4) Status operativnog partnera može se obustaviti ili ukinuti odlukom Vijeća.
- (5) Operativni partner može, na vlastiti trošak, rasporediti svoje predstavnike u sjedištu SELEC-a u svrhu provedbe sporazuma o suradnji.

Članak 42. Status promatrača

- (1) Status promatrača u SELEC-u otvoren je, na zahtjev, bilo kojoj državi ili međunarodnoj organizaciji ili tijelu koji izraze spremnost na suradnju i doprinos SELEC-u.
- (2) Promatrači mogu biti pozvani da prisustvuju sastancima Vijeća. Status promatrača ne daje pravo sudjelovanja u operativnim aktivnostima ili razmjenjivanja osobnih ili klasificiranih podataka ili informacija.
- (3) Status promatrača može se odobriti, obustaviti ili ukinuti odlukom Vijeća koja je donesena u skladu s uvjetima utvrđenima u Smjernicama za promatrače.

Članak 43. Odnosi s organizacijama i tijelima za provedbu zakona

- (1) SELEC će nastojati uspostaviti obostrano korisne odnose s europskim i drugim međunarodnim organizacijama i tijelima za provedbu zakona, između ostalog, Europol-om, Interpol-om i Svjetskom carinskom organizacijom, kako bi pojačali učinkovitu suradnju u provedbi zakona.
- (2) Uspostavom odnosa s Europolom čak i prije sklapanja sporazuma o suradnji, SELEC može koristiti, između ostalog, Europolove mogućnosti strateške i operativne analize ako ih Europol ponudi. U tu svrhu, SELEC i Europol mogu se sporazumjeti o raspoređivanju jednog ili više predstavnika u sjedištu SELEC-a i Eurola.

GLAVA VII. Odgovornost

Članak 44. Odgovornost

- (1) Bilo koja ugovorna odgovornost u vezi sa SELEC-om uređena je zakonima koji se primjenjuju u državi u kojoj ugovor ima pravne učinke, osim ukoliko je ugovorom drugačije uređeno.
- (2) U slučaju izvanugovorne odgovornosti, SELEC je obvezan nadoknaditi bilo koju štetu nastalu krivnjom njegovih tijela, glavnog ravnatelja, ravnatelja i osoblja SELEC-a u obavljanju njihovih dužnosti.

GLAVA VIII. Završne odredbe

Članak 45. Potpisivanje, ratifikacija, prihvata, odobrenje i pristup

- (1) Ova Konvencija otvorena je za potpisivanje državama strankama Ugovora o suradnji u sprečavanju i suzbijanju prekograničnog kriminala, sastavljenog u Bukureštu, Rumunjska, 26. svibnja 1999. godine.
- (2) Ova Konvencija podliježe ratifikaciji, prihvatu ili odobrenju država potpisnica u skladu s njihovim odgovarajućim pravnim uvjetima.
- (3) Ova Konvencija otvorena je za pristupe drugim državama u skladu s odredbama ove Konvencije.
- (4) Isprave o ratifikaciji, prihvatu, odobrenju ili pristupu polažu se kod depozitara.
- (5) Svaka država članica obavještava Tajništvo o njezinim nacionalnim nadležnim tijelima prilikom polaganja njezine isprave o ratifikaciji, prihvatu, odobrenju ili pristupu.

Članak 46. Stupanje na snagu

- (1) Ova Konvencija stupa na snagu šezdesetog dana od datuma kada je devet država stranaka Ugovora o suradnji u sprečavanju i suzbijanju prekograničnog kriminala, sastavljenog u Bukureštu, Rumunjska, 26. svibnja 1999. godine, položilo njihove isprave o ratifikaciji, prihvatu ili odobrenju.
- (2) Za svaku državu koja ratificira, prihvati, odobri ili pristupi ovoj Konvenciji nakon datuma njezinog stupanja na snagu, kako je predviđeno u stavku 1., ova Konvencija u odnosu na tu državu stupa na snagu datumom polaganja njezine odgovarajuće isprave.

Članak 47.
Izmjene i dopune

- (1) Ova Konvencija može biti izmijenjena i dopunjena na prijedlog bilo koje države članice.
- (2) Glavni ravnatelj svaki takav prijedlog dostavlja državama članicama najmanje šest mjeseci prije podnošenja Vijeću na razmatranje i odobrenje.
- (3) Izmjene i dopune ove Konvencije odobrene prema stavku 2. podliježu ratifikaciji, prihvatu ili odobrenju država članica i stupaju na snagu u skladu s postupcima utvrđenima člankom 46.

Članak 48.
Rezerve

Nikakve rezerve nije moguće staviti na ovu Konvenciju.

Članak 49.
Prijelazne odredbe

- (1) Stupanjem na snagu ove Konvencije, Ugovor o suradnji u sprečavanju i suzbijanju prekograničnog kriminala, sastavljen u Bukureštu, Rumunjska, 26. svibnja 1999. godine, prestaje biti na snazi.
- (2) Sva prava, obveze i imovina koja pripada SECI Centru prenosi se na SELEC datumom stupanja na snagu ove Konvencije.
- (3) Svi promatrači u SECI Centru imaju pravo postati promatrači u SELEC-u službeno izjavljujući takvu njihovu namjeru glavnom ravnatelju.
- (4) Promatrači u SECI Centru koji žele postati operativni partneri u SELEC-u podnose zahtjev za stjecanjem takvog statusa.
- (5) Svi stalni savjetnici u Zajedničkom odboru za suradnju SECI Centra imaju pravo, temeljem Ugovora o SECI-u, postati promatrači u SELEC-u službeno izjavljujući takvu njihovu namjeru glavnom ravnatelju.
- (6) Ugovor o sjedištu između Rumunjske i Regionalnog centra Inicijative za suradnju u jugoistočnoj Europi za suzbijanje prekograničnog kriminala, sastavljen u Bukureštu, Rumunjska, 2. listopada 2000. godine, ostaje na snazi dok ne stupi na snagu sporazum o sjedištu iz članka 6. stavka 2. između SELEC-a i države domaćina.

Članak 50.
Rješavanje sporova

U slučaju spora između dvije ili više država članica ili između države članice i SELEC-a u vezi s tumačenjem ili primjenom ove Konvencije, odnosno stranke će tražiti rješenje međusobnim konzultacijama i pregovorima. Ukoliko se takvim konzultacijama i pregovorima ne uspije riješiti spor u roku od šest mjeseci, stranke će ga podnijeti Vijeću na razmatranje i odgovarajuće djelovanje.

Članak 51.
Povlačenje

- (1) Svaka država članica može se u bilo koje doba povući iz ove Konvencije pisanom obavješću Tajništvu i depozitaru, koji zatim svakoj državi članici dostavlja ovjerenu presliku te obavijesti.
- (2) Povlačenje stupa na snagu tri mjeseca od datuma kada je depozitar primio takvu obavijest. Aktivnosti ili postupci koji postoje ili su u tijeku u vrijeme povlačenja dovršavaju se, bez obzira na to, u skladu s odredbama ove Konvencije.
- (3) Što se tiče financijskih obveza, takvo povlačenje stupa na snagu na kraju financijske godine u kojoj je objavljeno.
- (4) Država članica koja se povuče i dalje primjenjuje odredbe ove Konvencije koje se odnose na zaštitu podataka razmijenjenih prema ovoj Konvenciji.

Članak 52.
Depozitar

- (1) Vlada Rumunjske depozitar je ove Konvencije.
- (2) Depozitar će dostaviti ovjerenu presliku izvornika Tajništvu Ujedinjenih naroda radi registracije i objave u skladu s člankom 102. Povelje Ujedinjenih naroda.

Izvornik ove Konvencije, u jednom primjerku na engleskom jeziku, polaže se kod depozitara koji će svakoj državi članici dostaviti ovjerenu presliku.

U POTVRDU TOGA, dolje potpisani, za to propisno ovlašteni od njihovih vlada, potpisali su ovu Konvenciju.

Sastavljeno u Bukureštu, Rumunjska, 9. prosinca 2009.



otpravnik poslova – Veleposlanstvo

Nj. E. g. Luan TOPCIU, v.r.



zamjenik ministra – Ministarstvo sigurnosti

Nj. E. g. Mijo KREŠIĆ, v.r.



zamjenik ministra – Ministarstvo unutarnjih poslova

Nj. E. g. Veselin VUCHKOV, v.r.



pomoćnica ravnateljica – Carinska uprava

gđa. Ivana SOIĆ, v.r.



državni tajnik – Ministarstvo unutarnjih poslova

gđa. Violeta ANDONOVSKA, v.r.



zamjenik ministra – Ministarstvo zaštite građana

Nj. E. g. Spyros VOUGIAS, v.r.



državni tajnik – ministarstvo pravosuđa i provedbe zakona

g. Andras TURI, v.r.



minister – Ministarstvo unutarnjih poslova

Nj. E. g. Victor CATAN, v.r.



zamjenik ministra – Ministarstvo unutarnjih poslova i javne uprave

Nj. E. gđa. Nada VUKANIĆ, v.r.



državni tajnik – Ministarstvo uprave i unutarnjih poslova

g. Marian TUTILESCU, v.r.



državni tajnik – Ministarstvo unutarnjih poslova

g. Dragan MARKOVIĆ, v.r.



ravnatelj – Carinska uprava

g. Rajko SKUBIC, v.r.



podtajnik – Podtajništvo za carinu

g. Maksut METE, v.r.

CONVENTION OF THE SOUTHEAST EUROPEAN LAW ENFORCEMENT CENTER

The Parties to this Convention, being Contracting Parties to the Agreement on Cooperation to Prevent and Combat Transborder Crime, done at Bucharest, Romania on May 26, 1999 (hereinafter referred to as “Member States”);

Recognizing the value and advances of the cooperation, structures and procedures established and developed under the auspices of the Southeast European Cooperative Initiative (SECI);

Acknowledging that it is incumbent on all democratic nations to establish a society founded in freedom, security and justice;

Respecting the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Aware that criminals have no respect for borders and are disposed to exploit the same to the detriment of equity and justice;

Having in mind that criminal entrepreneurs debase and corrupt legitimate economies, societies and the rule of law through trans-national criminal markets and the forging of international illicit trade alliances;

Considering that it is the responsibility of all governments in the interests of their citizens to engage in effective measures to counter crime and the causes of crime while fully respecting the fundamental rights of individuals including the protection of personal data;

Recognizing the important role that effective exchange of information among law enforcement agencies has in preventing and combating all forms of crime and serious crime, including terrorism;

Regarding it to be in the common interest to capitalize on the advantages and opportunities created by the SECI Regional Center for Combating Trans-border Crime (SECI Center) and anticipating the advancement of those advantages and opportunities in a new international organization;

Considering international treaties in the field of trans-border crime and cooperation in law enforcement, as well as the EU acquis to the extent applicable;

And pursuant to this common aim and interest in generating enhanced mechanisms for effective cooperation between competent law enforcement agencies;

Acknowledging that the European Union has assigned to the European Police Office (Europol) the driving role as the EU law enforcement body supporting the fight against organized crime and other forms of serious crime and seeking to reach operational complementarities for the mutual benefit of SELEC and Europol;

Have agreed as follows:

TITLE I
Establishment, Objective and Tasks

Article 1
Establishment

The Member States hereby establish the Southeast European Law Enforcement Center (hereinafter referred to as "SELEC") to serve as a framework for cooperation among their competent authorities in order to fulfill the objectives of SELEC.

Article 2
Objective

The objective of SELEC, within the framework of cooperation among Competent Authorities, is to provide support for Member States and enhance coordination in preventing and combating crime, including serious and organized crime, where such crime involves or appears to involve an element of trans-border activity.

Article 3
Tasks

In accordance with Article 2, SELEC shall have the following tasks:

- (a) to support investigations and crime prevention activity in Member States and in accordance with this Convention;
- (b) to facilitate the exchange of information and criminal intelligence and requests for operational assistance;
- (c) to notify and inform the National Focal Points of Member States of connections between suspects, criminals or crimes related to the SELEC mandate;
- (d) to collect, collate, analyze, process and disseminate information and criminal intelligence;
- (e) to provide strategic analysis and to produce threat assessments related to the SELEC objective;
- (f) to establish, operate and maintain a computerized information system;
- (g) to act as a depository of good practice in law enforcement methods and techniques and to promote the same through multi-national training and conferences for the benefit of Member States;
- (h) to undertake other tasks consistent with the objective of this Convention, following a decision by the Council.

Article 4
Definitions

For the purposes of this Convention:

- (a) “SECI Center” shall mean the Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime established by the Agreement on Cooperation to Prevent and Combat Trans-border Crime done at Bucharest, Romania on May 26, 1999;
- (b) “Law enforcement” shall refer to all activity aimed at preventing and combating crime. It includes, but is not limited to, the work of customs, police and border guards where that work falls under the SELEC mandate;
- (c) “Competent authority” shall mean any public body existing within a Member State or Operational Partner which is responsible for law enforcement under national law;
- (d) “Multi-agency” shall mean the combination of different competent authorities involved in a single enterprise. Specifically in this Convention, it means a combination of border guards, police, customs and other competent authorities;
- (e) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (f) “Organized crime” shall mean any crime conducted by a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences;
- (g) "Trans-border activity" shall mean any illegal activity which is conducted or is intended to be conducted in the territory of more than one Member State;
- (h) “Person” shall mean any natural or legal person;
- (i) “Personal data” shall mean all information relating to an identified or identifiable natural person (“data subject”);
- (j) “Processing” of personal data (processing) shall mean any operation or set of operations which is performed upon personal data, such as collection, recording, organization, storage, adoption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction as well as transfer of personal data across national borders;
- (k) “Need to know” shall mean where a recipient of data or information requires knowledge of that information for a specific and authorized need established by reference to his or her post, role, office or function;

- (1) “Third Party” shall mean a state or international organization or body which is not a Member State, Operational Partner, or Observer.

TITLE II

Legal Status and Organization

Article 5 Legal Status

- (1) SELEC shall have international legal personality.
- (2) SELEC shall have in each Member State legal and contractual capacity under that State’s law.
- (3) In particular, it shall have the capacity:
 - (a) to contract;
 - (b) to acquire and dispose of movable and immovable property;
 - (c) to be a party to legal proceedings.

Article 6 Privileges and Immunities

- (1) SELEC, the representatives of the Member States, the Liaison Officers, Director General, Directors, the SELEC Staff, and the representatives of the Operational Partners shall enjoy the privileges and immunities necessary for the performance of their tasks, in accordance with a Protocol that shall be concluded by the Member States.
- (2) SELEC shall conclude a headquarters agreement with the Host Country.

Article 7 Organs of SELEC

The Organs of SELEC shall be:

- (a) the Council;
- (b) the Secretariat.

Article 8 Council

- (1) The Council shall be the supreme decision-making body of SELEC.
- (2) The Council shall consist of one representative designated with his or her alternate from each Member State. Each representative may be supported by a delegation.

- (3) Members of the Council shall be high level officials with authority to act on behalf of their States. When a member of the Council is unable to attend a meeting, he or she shall be replaced by his or her alternate.
- (4) The Council shall have a Chairperson selected by annual alphabetical rotation among the Member States.
- (5) Each Member State shall have one vote in the Council.
- (6) The Council shall meet at least once a year.
- (7) The Council shall have the following tasks:
 - (a) approve the SELEC strategic plan and annual action plan;
 - (b) annually approve the SELEC budget and define Member States' financial contributions;
 - (c) approve tasks for the SELEC other than those set forth in Article 3 of this Convention;
 - (d) elect and dismiss the Director General and Directors, and establish their terms and conditions of employment in accordance with this Convention;
 - (e) adopt the Security Manual;
 - (f) appoint a Data Protection Officer, who shall be a member of the SELEC Staff;
 - (g) appoint external financial auditors for SELEC in accordance with this Convention;
 - (h) endorse the SELEC annual report;
 - (i) authorize the Director General to negotiate agreements, including memoranda of understanding, with the Host Country or Third Parties and, if appropriate, to define negotiating positions;
 - (j) approve the conclusion of agreements, including memoranda of understanding, with the Host Country or Third Parties;
 - (k) establish criteria for admission for new membership to the SELEC ;
 - (l) approve applications for membership by States and their admission to the SELEC;
 - (m) approve applications by any Third Party to become an Observer or an Operational Partner;

- (n) adopt its own rules of procedure, as well as rules of procedure and regulations necessary for the proper implementation of this Convention, including Guidelines for Observers;
- (o) comply with other tasks as defined elsewhere in this Convention.

(8) In executing the tasks set forth above in items a, b, c, e, i, j, k, l, m and n of paragraph (7), the Council shall decide by consensus of all Member States. In executing all other tasks, the Council's decisions must be reached by two-thirds majority of all Member States, unless otherwise provided in this Convention.

(9) The Council may establish committees and working groups to assist its work.

Article 9 Secretariat

(1) The Secretariat shall consist of:

- (a) the Director General;
- (b) the Directors;
- (c) the SELEC Staff.

(2) In the performance of their duties, the Director General, the Directors and the SELEC Staff shall not seek, receive or act on instructions from any government or from any other authority external to SELEC.

(3) Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General, the Directors and the SELEC Staff and shall not seek to influence them in the discharge of their responsibilities.

Article 10 Director General

(1) SELEC shall be headed by a Director General who shall function as its chief executive officer and legal representative.

(2) The Director General shall be elected for a term of 4 years. The Director General may be reelected only once.

(3) The Director General shall be a citizen of one of the Member States and shall be elected by the Council following an open and public procedure.

(4) The Director General shall be accountable to the Council with respect to the performance of his or her duties.

(5) The Director General shall be responsible for:

- (a) the effective management of SELEC;

- (b) preparing and implementing the strategic plan, the annual action plan and the budget;
- (c) preparing and submitting to the Council the annual reports;
- (d) promoting and developing relations with Member States and Third Parties;
- (e) negotiating and concluding agreements on the acceptance of other income as provided in Article 36, paragraph (2);
- (f) drafting and proposing rules of procedure and regulations necessary for the proper implementation of this Convention;
- (g) representing SELEC and its interests;
- (h) designating a Director to act on his or her behalf in the event of absence or incapacity;
- (i) performing other tasks as necessary in compliance with the provisions of this Convention.

Article 11 Directors

- (1) The Director General shall be assisted by one or more Directors. The Council shall define the number, function, and roles of the Directors.
- (2) Directors shall be elected for a term of 3 years. Directors may be reelected only once.
- (3) Each Director shall be a citizen of one of the Member States and shall be elected by the Council following an open and public procedure.
- (4) The Directors shall be accountable to the Director General for the tasks assigned to them.

Article 12 SELEC Staff

- (1) SELEC Staff shall consist of all persons working under the authority and control of the Director General and Directors.
- (2) SELEC Staff shall consist of nationals of Member States, taking into account the adequate representation of all Member States.
- (3) Staff Regulations shall include the rules, principles and procedures governing the selection of staff, their recruitment, classification of posts, and the efficient operation of SELEC's Secretariat in attainment of the objective of this Convention.

Article 13
National Units

- (1) The National Units shall be established by the Member States for the purpose of implementing the objective of this Convention.
- (2) The National Units shall consist of:
 - (a) Liaison Officers;
 - (b) National Focal Points.

Article 14
Liaison Officers

- (1) For the purposes of police and customs cooperation, each Member State shall post at least one Liaison Officer to work at the headquarters of SELEC.
- (2) The SELEC Liaison Officers shall work under the national laws of the appointing Member States and represent the interests of those States and all their national competent authorities equally. However, their work shall also be regulated by the terms of this Convention. The SELEC Liaison Officers shall respect the internal rules and regulations of SELEC.
- (3) Prior to appointment, any SELEC Liaison Officer shall have undergone a security screening procedure according to national requirements allowing access to law enforcement and/or classified information.
- (4) In cases where the conduct of a Liaison Officer is not satisfactory in terms of this Convention, the Director General may report to the sending Member State accordingly.
- (5) SELEC Liaison Officers shall not represent his or her Member State as a delegate to the Council.
- (6) All costs relating to the appointment and posting of a SELEC Liaison Officer shall be funded by the Member State. However, SELEC shall provide from its budget reasonable and adequate office accommodation and equipment for that Liaison Officer to perform his or her duties.

Article 15
National Focal Points

- (1) In furtherance of the aims of this Convention, the Member States shall establish or designate a multi-agency office or unit, which shall serve as the National Focal Point.
- (2) The National Focal Point shall act as the single point of contact in the Member State for communications with SELEC, through the Liaison Officers of the given Member State.
- (3) The National Focal Point shall be adequately staffed and provided with all necessary equipment, resources and facilities required to perform its tasks as defined in this Convention.

(4) The National Focal Point and its Staff shall be governed by national law, but will conduct its affairs with reference to this Convention and shall, in particular, comply with the principles of data protection contained in this Convention.

Article 16
Headquarters and Official Language

- (1) SELEC shall be located in Bucharest, Romania.
- (2) The Host Country shall ensure without payment the building and the current and capital repairs to the infrastructure of the SELEC.
- (3) The official language of SELEC shall be English.

TITLE III
Information System and Data Security

Article 17
Information Exchange System

- (1) According to the stages set forth in this Article, SELEC shall establish and maintain a computerized information system for holding and processing data necessary to the performance of its tasks as laid down in Article 3. This information system shall include any stand alone hardware or independently structured database and all information technology under the control of SELEC.
- (2) SELEC shall conduct information exchanges and joint operations, in which SELEC through Liaison Officers and representatives of Operational Partners shall obtain data, including personal data.
- (3) In all instances, SELEC's processing of personal data shall be subject to limitations imposed by the provider of the data and subject to the data protection procedures developed to satisfy the principles of data protection set out in this Convention and other applicable requirements of national law and bilateral or multilateral international agreements. SELEC shall store data in such a way that it can be established by which Member State, Operational Partner, Observer, or Third Party the data were transmitted or whether they are the result of an analysis by SELEC.
- (4) To the extent and after such time that data protection procedures appropriate to the task have been established and implemented, SELEC shall then proceed to enhance its ability to assist Member States and enhance coordination among them in preventing, detecting and combating serious trans-border crime by maintaining and indexing such personal data for use in subsequent investigations involving SELEC and its Operational Partners.
- (5) Subsequently, to the extent and after such time that data protection procedures appropriate to the task have been established and implemented, SELEC shall then proceed to establish and maintain one or more databases, which may include personal and non-personal data. Such data shall be collected in the context of SELEC's participation in concrete cases, as

well as outside the context of concrete cases as provided by Member States, Operational Partners, Observers and Third Parties, and SELEC shall analyze and process such data in an effort to prevent, detect, and investigate serious trans-border crime.

(6) The Director General or any Member State may propose to the Council that it is appropriate to move to the next stage pursuant to this Article. In evaluating such a proposal, the Council shall consult the Joint Supervisory Body. The Council must decide by consensus if data protection procedures appropriate to the task have been implemented and whether to proceed to the next stage, as described in paragraph (4) and (5).

(7) The information systems operated by SELEC must under no circumstances be linked to other automated processing systems, except for the automated processing systems of the National Units.

(8) SELEC shall be responsible for and shall take all necessary measures for the proper working and implementation of the information system in technical and operational respects.

Article 18 Use of Information System

(1) In establishing and maintaining an information system, SELEC and Member States shall take necessary and adequate technical precautions, and shall establish control mechanisms, to ensure the integrity and adequacy of the data in the information system, to prevent accidental or unauthorized erasure, modification, or dissemination and to prevent unauthorized access.

(2) In order to perform its task the SELEC information system shall be accessible on a “need to know” basis by:

- (a) National Focal Points;
- (b) Liaison Officers;
- (c) Directors and SELEC Staff authorized by the Director General;
- (d) Operational Partners authorized by the terms of their respective cooperation agreements.

(3) Data may be input into SELEC information system only by:

- (a) National Focal Points;
- (b) Liaison Officers;
- (c) Directors and SELEC Staff authorized by the Director General;
- (d) Operational Partners authorized by the terms of their respective cooperation agreements.

(4) Access to or input of data into the SELEC information system may only be carried out by persons who have been adequately trained and certified, as specified in the rules of procedure.

(5) All details concerning the data insertion, research or access shall be recorded in auditable format. Such details shall be stored in the SELEC information system, in compliance with data protection rules as defined in this Convention.

Article 19 Data security

(1) SELEC shall take the necessary technical and organizational measures to ensure the implementation of this Convention with respect to data security.

(2) In respect of automated data processing at SELEC each Member State and SELEC shall implement measures designed to:

- (a) deny unauthorized persons access to data processing equipment used for processing personal data (equipment access control);
- (b) prevent the unauthorized reading, copying, modification or removal of data media (data media control);
- (c) prevent the unauthorized input of data and the unauthorized inspection, modification or deletion of stored personal data (storage control);
- (d) prevent the use of automated data processing systems by unauthorized persons using data communication equipment (user control);
- (e) ensure that persons authorized to use an automated data processing system only have access to the data covered by their access authorization (data access control);
- (f) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);
- (g) ensure that it is possible to verify and establish which personal data have been input into automated data or processing systems and when and by whom the data were input (input control);
- (h) prevent unauthorized reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media (transport control);
- (i) ensure that installed systems may, in case of interruption, be immediately restored (recovery);

- (j) ensure that the functions of the system perform without fault, that the appearance of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by means of a malfunctioning of the system (integrity).

Article 20 Classified Information

- (1) All information processed by or through SELEC, except information which is expressly marked or is clearly recognizable as being public information, shall be subject to a basic protection level within the SELEC organization as well as in the Member States. Information which is subject only to the basic protection level shall not require a specific marking of a SELEC security level, but shall be designated as SELEC data.
- (2) SELEC and the Member States shall take appropriate measures to protect classified information according to the requirement of confidentiality specified by the party providing the information on the basis of this Convention.
- (3) No person shall obtain access to classified information except with prior security screening and clearance by their national government according to its national law. The relevant authority under national provisions shall inform SELEC only of the results of the security screening, which shall be binding on SELEC.
- (4) The Council shall adopt a Security Manual which shall include, *inter alia*, detailed rules on the security measures to be applied within the SELEC organization and a security package corresponding to each classification level.
- (5) SELEC shall use the following classification levels: “restricted”, “confidential”, “secret” and “top secret”.
- (6) The responsibility for the practical implementation of the security measures laid down in the Security Manual shall lie with the Director General.

TITLE IV Personal Data Protection

Article 21 Personal Data

- (1) Personal data entered to the SELEC Information System shall relate to persons who, in accordance with the national law of the Member State concerned, are the subjects of an investigation relating to a criminal offense in respect of which SELEC is competent or who have been convicted of such an offence;
- (2) Data related to persons referred to in paragraph (1) may include only the following details:
 - (a) surname, maiden name, given names and any alias or assumed name;
 - (b) date and place of birth;

- (c) citizenship;
- (d) sex;
- (e) place of residence, profession and whereabouts of the person concerned;
- (f) driving licenses, identification documents and passport data; and
- (g) where necessary and available, other characteristics likely to assist in identification, including any specific objective physical characteristics not subject to change, and Personal or other Identification Number.

(3) In addition to the data referred to in paragraph (2), the SELEC Information System may also be used to process the following details concerning the persons referred to in paragraph (1):

- (a) criminal offences and when, where and how they were committed;
- (b) means which were or may be used to commit the criminal offences;
- (c) suspected membership of a criminal organization;
- (d) convictions, where they relate to criminal offences in respect of which SELEC is competent;

(4) The SELEC Information System may also include:

- (a) data referred in paragraph (3) (a) and (b) when they do not yet contain any references to natural persons;
- (b) any other data which are or may be involved in criminal cases not directly related to natural persons including commodities, means of transport, businesses, and any technical means used for identification of these.

Article 22 Standard of Personal Data Protection

SELEC shall apply principles on the protection of personal data processed by SELEC taking into account the level of protection and administrative practice in the Member States and according to the standards and principles of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, and of Recommendation No. R (87) 15 of the Committee of Ministers of the Council of Europe of 17 September 1987. SELEC shall observe these principles in the processing of personal data, including non-automated data held in the form of data files.

Article 23
Principles of Personal Data Protection

(1) Pursuant to this Convention, any personal data will only be processed in accordance with the following principles and enforcement mechanisms:

- (a) personal data shall only be processed for the purpose of the objectives and tasks of SELEC;
- (b) processing of personal data must be fair and lawful;
- (c) processing of personal data must be adequate, relevant and not excessive in relation to the purposes for which they were initially collected;
- (d) data must be accurate and kept up to date and the quality and integrity of personal data processed by SELEC shall be maintained;
- (e) technical and organizational security measures should be taken that are appropriate to the risks presented by the processing;
- (f) SELEC shall process personal data in a manner that is transparent, consistent with its law enforcement objective and tasks;
- (g) any data subject shall have access to his or her personal data maintained by SELEC, consistent with SELEC's law enforcement objective and tasks;
- (h) any data subject shall have an appropriate right of redress with respect to his or her personal data maintained by SELEC, consistent with SELEC's law enforcement objective and tasks;
- (i) the processing of personal data by SELEC shall be subject to oversight by an independent Joint Supervisory Body, established pursuant to this Convention.

(2) Personal data revealing racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, and data concerning health or sex life may not be processed unless such data are strictly necessary for the purposes of a specific investigation in which SELEC is involved and only if the transmission of this data to SELEC for such processing is permitted by the national law of the transmitting party. It shall be prohibited to select a particular group of persons solely on the basis of the data listed in the first sentence of this paragraph.

Article 24
Restrictions on Access to Particular Items of Personal Data

(1) An authority providing personal data may restrict access to individual items of such data by other Member States or Operational Partners.

(2) The transmitting Member State or Operational Partner or SELEC can agree with the intended recipient on restrictions on the use of data and the transmission to Third Parties. These restrictions should include measures to ensure consistency with the principles set forth in Article 23 of this Convention.

Article 25

Time limits for the storage and deletion of personal data

(1) Personal data in the Information System shall be held only for as long as is necessary for the performance of SELEC's tasks. The need for continued storage shall be reviewed no later than three years after the input of personal data. Review of personal data stored in the Information System and its deletion shall be carried out by the inputting party.

(2) During the review, the inputting party referred to in paragraph (1) may decide on continued storage of personal data until the next review which shall take place after another period of three years if this is still necessary for the purpose of its processing. If no decision is taken on the continued storage of personal data, those personal data shall automatically be deleted by the SELEC. SELEC shall automatically inform the inputting parties three months in advance of the expiry of the time limits for reviewing the storage of personal data.

Article 26

Further Processing

(1) Nothing in this Convention shall prohibit or hinder law enforcement authorities from cooperating and exchanging data in concrete cases and investigations, provided that such cooperation and exchange of data includes measures to ensure consistency with the principles mentioned in Article 23 of this Convention. However, transmission of data cannot take place if the use of the transmitted data could violate human rights or rule of law principles.

(2) Further processing of personal data for a purpose other than the purpose for which the personal data was provided shall be only permitted insofar as:

- (a) it is not incompatible with the purpose for which the data are processed by SELEC; and
- (b) the inputting Member State or Operational Partner has given its prior consent; and
- (c) the processing authority is responsible for the prevention, investigation, detection or prosecution of criminal offences within SELEC's objective.

(3) Transfer of personal data to Third Parties or Observers may only take place with the prior consent of the inputting party in accordance with its legislation and in accordance with its evaluation of the adequate level of protection of personal data in the receiving Third Party or Observer.

Article 27
Data Protection Officer

(1) The Council shall appoint a Data Protection Officer, who shall ensure compliance with the data protection provisions of this Convention, according to functions assigned by the Council. When assigning such functions, the Council shall ensure that the functions of the Data Protection Officer are defined so that they do not interfere with the operation of SELEC in concrete cases. In the performance of his or her duties, the Data Protection Officer shall act independently.

(2) The Data Protection Officer shall perform in particular the following tasks under the direct authority of the Council:

- (a) ensuring, in an independent manner, lawfulness and compliance with the provisions of this Convention concerning the processing of personal data;
- (b) ensuring that a written record of the transmission and receipt of personal data is kept in accordance with this Convention;
- (c) ensuring that data subjects are informed of their rights under this Convention at their request;
- (d) cooperating with SELEC Staff responsible for procedures, training and advice on data processing;
- (e) cooperating with the Joint Supervisory Body.

(3) In the performance of the tasks described in paragraph (2), the Data Protection Officer shall not take any instructions from the Director General, Directors, a Member State, or any other source. In the performance of these tasks, the Data Protection Officer shall have access to all the data processed by SELEC and to all SELEC premises.

(4) If the Data Protection Officer considers that the provisions of this Convention concerning the processing of personal data have not been complied with, he shall inform the Director General and the Council. If the Director General does not resolve the non-compliance of the processing within 60 days, the Data Protection Officer shall inform the Council, which shall acknowledge receipt of the information. If the Council does not resolve the non-compliance of the processing within a reasonable time, the Data Protection Officer shall refer the matter to the Joint Supervisory Body.

(5) The Council may determine additional tasks of the Data Protection Officer. Further implementing rules concerning the Data Protection Officer shall be adopted by the Council. The implementing rules shall in particular concern selection and dismissal, tasks, duties and powers of the Data Protection Officer.

Article 28
Responsibility in personal data protection matters

(1) The responsibility for personal data processed at SELEC, in particular as regards the legality of the collection, the transmission to SELEC and the input of personal data, as well as their accuracy, their up-to-date nature and verification of the storage time limits, shall lie with:

- (a) the Member State, Operational Partner, Observer or Third Party that made available the personal data;
- (b) SELEC in respect of data which result from analyses conducted by SELEC.

(2) In addition, SELEC shall be responsible for all personal data processed by it, from the moment it includes such data in one of its automated or non-automated data files. Personal data which has been transmitted to SELEC but not yet included in SELEC's information system shall remain under the data protection responsibility of the party transmitting the data. However, SELEC shall be responsible for ensuring that until such personal data have been included in a data file, they may only be accessed by authorized SELEC officials for the purpose of determining whether they can be processed at SELEC, or by authorized officials of the party which supplied the data. If SELEC, after appraisal, has reason to assume that data supplied are inaccurate or no longer up-to-date, it shall inform the party which supplied the data.

Article 29
Liability for unauthorized or incorrect data processing

(1) Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual as a result of legal or factual errors in personal data. Only the Member State in the territory of which the damage has occurred may be the subject of an action for compensation on the part of the injured individual. A Member State may not plead that another Member State had transmitted inaccurate data in order to avoid its liability under its national legislation vis-a-vis an injured party.

(2) If these legal or factual errors occurred as a result of data erroneously communicated or of failure to comply with the obligations of this Convention on the part of one or more Member States or as a result of unauthorized or incorrect storage or processing by SELEC, the Member State or States in question or SELEC, accordingly, shall be bound to refund, on request, to the Member State which compensated the injured individual, the amounts paid as compensation, unless the data in question were used by the latter in breach of this Convention. This principle may also apply to Operational Partners, if their cooperation agreement with SELEC so provides.

(3) Any dispute between the Member States which compensated the injured individual and SELEC or another Member State over the principle or amount of the refund shall be referred to the Council, in accordance with Article 50.

Article 30
Right of access of the data subject

- (1) Any person shall be entitled, at reasonable intervals, to obtain confirmation whether personal data relating to him or her is processed by SELEC and to have communication to him or her of such data in an intelligible form.
- (2) Any person wishing to exercise his or her rights under this Article may make a request free of charge at SELEC.
- (3) The request shall be answered by SELEC without undue delay and in any case within three months following its receipt by SELEC in accordance with this Article.
- (4) The provision of information in response to a request under paragraph 1 shall be refused to the extent that such refusal is necessary to:
 - (a) enable SELEC to fulfill its objectives and tasks properly;
 - (b) protect security and public order in the Member States or to prevent crime;
 - (c) protect the rights and/or freedoms of third persons; or
 - (d) guarantee that any national or joint investigation will not be jeopardized.
- (5) When assessing the applicability of an exemption under paragraph (4), the interests of the person concerned must be taken into account.
- (6) Prior to its decision on a response to a request, SELEC shall consult the competent law enforcement authorities that provided the data. SELEC shall refuse to provide information if one or more competent law enforcement authorities or SELEC decide that the request must be refused under paragraph (4). An authority deciding on refusal shall notify SELEC of the reasons for its decision.
- (7) If the provision of information in response to a request under paragraph (1) is refused, SELEC shall notify the person concerned his or her request has been considered and refused pursuant to this Convention, without giving any information which might reveal to him or her whether or not personal data concerning him or her are processed by SELEC. The reasons for a refusal shall be recorded by SELEC.

Article 31
Correction and deletion of data

- (1) Any data subject shall have the right to ask SELEC in writing to correct or delete incorrect data concerning him/her. If it emerges, either on the basis of the exercise of this right or otherwise, that data held by SELEC which have been communicated to it by Third Parties or which are the result of its own analyses are incorrect or that their input or storage contravenes this Convention, SELEC shall correct or delete such data.

(2) If incorrect data have been transmitted by another appropriate means or if the errors in the data supplied by Member States or Operational Partners are due to faulty transmission or have been transmitted in breach of the provisions of this Convention or if they result from their being entered, taken over or stored in an incorrect manner or in breach of the provisions of this Convention by SELEC, SELEC shall be obliged to correct or delete the data in collaboration with the Member States and Operational Partners concerned.

(3) In the cases referred to in paragraphs (1) and (2), the Member States or Operational Partners that have received the data shall be notified forthwith. The recipient Member States or Operational Partners shall also correct or delete those data according to applicable regulations.

(4) Except as provided in Article 30, paragraphs (4) and (5), SELEC shall inform the data subject in writing and without undue delay and in any case within three months that data concerning him or her have been corrected or deleted.

Article 32 Appeals

(1) In its reply to a request for a check, for access to data, or a request for correction and deletion of data, SELEC shall inform the data subject that he or she has the right to appeal to the Joint Supervisory Body and of the time limit for such appeal.

(2) Every data subject has the right to appeal to the Joint Supervisory Body if he or she is not satisfied with the SELEC response to a request or if there has been no response to the request within the time limits laid down in Articles 30 or 31. Such appeal must be lodged within 30 days of the date the response is received or of the expiration of the time limits laid down in Articles 30 or 31.

(3) The Joint Supervisory Body shall examine and decide the appeal at its next meeting. The decision of the Joint Supervisory Body on an appeal shall be final and binding on all parties to the appeal.

(4) Where the appeal relates to a response to a request as referred to in Article 30 or 31, the Joint Supervisory Body shall consult the competent data protection authorities in the Member State or Operational Partner which was the source of the data or the Member States or Operational Partners directly concerned.

(5) In the event that the appeal relates to decision referred to in Article 30 or 31 that is based on an objection pursuant to Article 30, paragraph (4), by SELEC, a Member State or Operational Partner, the Joint Supervisory Body shall only be able to overrule such objections by consensus after having heard SELEC and the concerned Member States or Operational Partners. If there is no such consensus, the Joint Supervisory Body shall notify the refusal to the enquirer, without giving any information which might reveal the existence of any personal data about the enquirer.

Article 33
National supervision

- (1) Each Member State shall ensure independent national supervision, by designating an authority, in accordance with its national law, of its activities under this Convention with respect to personal data protection matters, and taking into account the international standards and principles of personal data protection established by the Council of Europe.
- (2) Without prejudice to Article 29, the Member States provide for the right of every person, regardless of his or her nationality or residence, to a judicial remedy for any breach of the rights guaranteed him or her by the national law applicable to the processing in question.
- (3) SELEC shall take necessary measures to facilitate such national supervision, including by providing access to the applicable Liaison Officers' premises.
- (4) Member States shall inform the Joint Supervisory Body of any findings relating to personal data protection concerning SELEC that result from such supervision.

Article 34
Joint Supervisory Body

- (1) An independent Joint Supervisory Body shall be set up to hear appeals pursuant to Article 32, and to review the procedures and practices at SELEC to ensure that they comply with the data protection provisions of this Convention. The Joint Supervisory Body shall be made up of one representative from each Member State who shall be independent as regards personal data protection matters according to national law. The Joint Supervisory Body shall determine its rules of procedure. In the performance of their duties, the members of the Joint Supervisory Body shall not receive instructions from any other body.
- (2) The Joint Supervisory Body shall conduct periodic reviews at least one time per year.
- (3) SELEC shall assist the Joint Supervisory Body in the performance of the latter's tasks. In doing so, it shall in particular:
 - (a) supply the information the Joint Supervisory Body requests, give it access to all documents and paper files as well as access to the data stored in its data files;
 - (b) allow the Joint Supervisory Body free access at all times to all its premises;
 - (c) implement the Joint Supervisory Body's decisions on appeals.
- (4) If the Joint Supervisory Body identifies any violations of the provisions of this Convention in the storage, processing or utilization of personal data, it shall bring the matter to the attention of the Director General and shall request him to reply within a time limit specified by the Joint Supervisory Body. The Director General shall keep the Council informed of the entire procedure. If it is not satisfied with the response given by the Director General to its request, the Joint Supervisory Body shall refer the matter to the Council.

(5) The Joint Supervisory Body shall inform the Director General and the Council about its reviews and make any necessary recommendations regarding data protection procedures and practices. The Director General and the Council shall consider such recommendations, and take all appropriate steps to correct any problems with procedures and practices.

(6) The Joint Supervisory Body shall draw up and make public activity reports at regular intervals.

TITLE V Financial Provisions

Article 35 Budget

(1) The SELEC budget shall be established on an annual basis. The financial year shall run from 1 January to 31 December.

(2) The budget shall set forth total income and total expenditures for the year. The budget shall balance, with total annual income always covering total annual expenditures.

(3) The Council shall consider and approve the budget by 31 May of each year at the latest. The budget may be revised by the Council.

(4) A five-year financial plan shall be considered and adopted and may be revised together with the annual budget.

Article 36 Income

(1) The budget shall be financed from contributions from the Member States and by other income.

(2) Other income may include donations, subsidies or other funds from national governments, international organizations or other public sources, and, subject to prior approval of the Council, private sources.

(3) Failure of fulfillment of financial obligations by any Member State shall be submitted to the Council for consideration.

Article 37 External Financial Audit

The financial records of SELEC, including the accounts established pursuant to the budget showing income and expenditures, and the balance sheet showing SELEC's assets and liabilities, shall be subject to an external financial audit.

Article 38
Financial Rules and Regulations

Financial Rules and Regulations shall be considered and adopted by the Council.

TITLE VI
Participation

Article 39
Membership

The Members of SELEC are the Parties to this Convention.

Article 40
Admission

(1) SELEC is open for admission to any State which has a particular interest in law enforcement cooperation in the Southeast European Region and which applies for membership, agrees with the objective and tasks of the SELEC as set forth in this Convention, and satisfies criteria established by the Council.

(2) Applications for membership shall be submitted to the Council for consideration and approval. Once the approval is obtained the applicant State shall be invited by the Council to accede to this Convention pursuant to Article 45.

Article 41
Operational Partner Status

(1) Operational Partner status in SELEC shall be open upon request to any State or international organization or body that expresses its readiness to cooperate with SELEC, agrees to provide support to SELEC, and concludes a cooperation agreement with SELEC.

(2) After the Council has decided that an applicant fulfills the conditions requested for starting negotiations for the Operational Partner status, the Director General shall negotiate the cooperation agreement with that applicant.

(3) The cooperation agreement shall set forth, inter alia, appropriate regulations on personal data protection, security measures, financial relations, and settlement of disputes between the SELEC and the Operational Partner. Once the draft text of the cooperation agreement has been approved by the Council, it shall be signed by the Director General on behalf of SELEC.

(4) Operational Partner status may be suspended or terminated by decision of the Council.

(5) An Operational Partner may post, at its cost, representatives at the Headquarters of SELEC for the purposes of the implementation of the cooperation agreement.

Article 42
Observer Status

- (1) Observer status in SELEC shall be open upon request to any State or international organization or body that expresses its readiness to cooperate with and to make a contribution to SELEC.
- (2) Observers may be invited to attend the meetings of the Council. Observer status shall not grant the right to participate in operational activities and to exchange personal or classified data or information.
- (3) Observer status may be granted, suspended or terminated by a decision of the Council, adopted in accordance with the conditions set forth in the Guidelines for Observers.

Article 43
Relations with Law Enforcement Organizations and Bodies

- (1) SELEC shall make efforts to establish mutually beneficial relationships with European and other international law enforcement organizations or bodies, inter alia Europol, Interpol and the World Customs Organization, in order to enhance effective law enforcement cooperation.
- (2) In establishing its relationship with Europol and even prior to the conclusion of a cooperation agreement, SELEC may make use of, inter alia, Europol's strategic and operational analysis capacity if Europol offers this capacity. To this end, SELEC and Europol may agree on the posting of one or more representatives at the headquarters of SELEC and Europol.

TITLE VII
Liability

Article 44
Liability

- (1) Any contractual liability involving SELEC shall be governed by the law applicable in the State in which the contract has effect, except where the contract stipulates otherwise.
- (2) In the case of non-contractual liability, SELEC shall be obliged to make good any damage caused through the fault of its Organs, Director General, Directors and SELEC Staff in the performance of their duties.

TITLE VIII
Final Provisions

Article 45
Signature, Ratification, Acceptance, Approval and Accession

- (1) This Convention shall be open for signature by the States Parties to the Agreement on Cooperation to Prevent and Combat Trans-border Crime, done at Bucharest, Romania on May 26, 1999.

- (2) This Convention is subject to ratification, acceptance, or approval by the signatory States in accordance with their respective legal requirements.
- (3) This Convention shall be open for accession by other States in accordance with the provisions of this Convention.
- (4) Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.
- (5) Each Member State shall inform the Secretariat of its national competent authorities when depositing its instrument of ratification, acceptance, approval, or accession.

Article 46
Entry into Force

- (1) This Convention shall enter into force on the sixtieth day following the date when nine State Parties to the Agreement on Cooperation to Prevent and Combat Trans-border Crime, done at Bucharest, Romania on May 26, 1999 have deposited their instruments of ratification, acceptance or approval.
- (2) For each State that ratifies, accepts, approves or accedes to this Convention after the date of this Entry into Force, as provided for in paragraph (1), this Convention with respect to that State shall enter into force on the date of the deposit by the State of its respective instrument.

Article 47
Amendments

- (1) This Convention may be amended on the proposal of any Member State.
- (2) Any such proposal shall be communicated by the Director General to the Member States at least six months before submission to the Council for consideration and approval.
- (3) Amendments to this Convention approved pursuant to paragraph (2) shall be subject to ratification, acceptance or approval by the Member States and shall enter into force according to the procedures set forth in Article 46.

Article 48
Reservations

No reservations may be made to this Convention.

Article 49
Transitional Provisions

- (1) Upon the entry into force of this Convention, the Agreement on Cooperation to Prevent and Combat Trans-border Crime signed at Bucharest, Romania on May 26, 1999 shall cease to have effect.

- (2) All rights, obligations and property belonging to the SECI Center shall be transferred to the SELEC on the date when this Convention enters into force.
- (3) All SECI Center observers shall have the right to become Observers to SELEC by officially declaring to the Director General their intention to do so.
- (4) Observers to the SECI Center that wish to become Operational Partners to the SELEC shall apply for such status.
- (5) All Permanent Advisors to the SECI Center Joint Cooperation Committee by virtue of the SECI Agreement shall have the right to become Observers to SELEC by officially declaring to the Director General their intention to do so.
- (6) The Headquarters Agreement between Romania and the Regional Center of Southeast European Cooperative Initiative for Combating Trans-border Crime, done at Bucharest, Romania on October 2, 2000, remains in force until the headquarters agreement mentioned in Article 6, paragraph (2), between SELEC and the Host Country enters into force.

Article 50 Settlement of Disputes

In case of a dispute between two or more Member States or between a Member State and SELEC concerning the interpretation or application of this Convention, the parties concerned shall seek a solution through mutual consultations and negotiations. Should such consultations and negotiations fail to resolve the dispute within six months, the parties shall submit the dispute to the Council for consideration and appropriate action.

Article 51 Withdrawal

- (1) Each Member State may withdraw from this Convention at any time by written notification to the Secretariat and to the Depositary, which then shall transmit a certified copy of that notification to each Member State.
- (2) Withdrawal shall take effect three months from the date on which the notification was received by the Depositary. Activities or proceedings existing or on-going at the time of withdrawal shall nonetheless be completed in accordance with the provisions of this Convention.
- (3) As far as financial obligations are concerned, such withdrawal shall take effect at the end of the financial year in which it is notified.
- (4) A Member State which withdraws shall continue to observe the provisions of this Convention concerning the protection of data exchanged pursuant to this Convention.

Article 52 Depositary

- (1) The Government of Romania shall act as Depositary of this Convention.

(2) The Depositary shall transmit a certified copy of the original to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

The original of this Convention in a single copy in the English language shall be deposited with the Depositary which shall transmit a certified copy to each Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Convention.

Done at Bucharest, Romania on December 9, 2009.



Charge d'affairs – Embassy

H.E. Mr. Luan TOPCIU



Deputy Minister – Ministry of Security

H.E. Mr. Mijo KREŠIĆ



Deputy Minister – Ministry of Internal Affairs

H.E. Mr. Veselin VUCHKOV



Assistant Director General – Customs Administration

Mrs. Ivana SOIĆ



State Secretary – Ministry of Interior Affairs

Ms. Violeta ANDONOVSKA



Deputy Minister – Ministry of Citizen Protection

H.E. Mr. Spyros VOUGIAS



State Secretary – Ministry of Justice and Law Enforcement

Mr. Andras TURI



Minister - Ministry of Internal
Affairs

H.E. Mr. Victor CATAN



Deputy Minister – Ministry of Interior
Affairs and Public Administration

H.E. Mrs. Nada VUKANIĆ



State Secretary – Ministry of
Administration and Interior

Mr. Marian TUTILESCU



State Secretary – Ministry of Internal
Affairs

Mr. Dragan MARKOVIĆ



Director General – Customs
Administration

Mr. Rajko SKUBIC



Undersecretary – Undersecretariat of
Customs

Mr. Maksut METE

Članak 3.

Provedba ovoga Zakona u djelokrugu je središnjeg tijela državne uprave nadležnog za poslove financija i središnjeg tijela državne uprave nadležnog za unutarnje poslove.

Članak 4.

Na dan stupanja na snagu ovoga Zakona Konvencija iz članka 1. ovoga Zakona nije na snazi te će se podaci o njezinom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Članak 5.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

OBRAZLOŽENJE

Uz članak 1.

Člankom 1. utvrđuje se da Hrvatski sabor potvrđuje Konvenciju Centra za provedbu zakona u jugoistočnoj Europi, sukladno odredbi članka 139. stavka 1. Ustava Republike Hrvatske, čime se iskazuje formalni pristanak Republike Hrvatske da bude vezana ovom Konvencijom, na temelju čega će ovaj pristanak biti iskazan i na međunarodnoj razini.

Uz članak 2.

Članak 2. sadrži tekst SELEC Konvencije u izvorniku na engleskom jeziku i u prijevodu na hrvatskom jeziku.

Uz članak 3.

Člankom 3. utvrđuje se da je provedba ovoga Zakona u djelokrugu središnjeg tijela državne uprave nadležnog za poslove financija i središnjeg tijela državne uprave nadležnog za unutarnje poslove.

Uz članak 4.

Člankom 4. utvrđuje se da na dan stupanja na snagu ovoga Zakona Konvencija iz članka 1. ovoga Zakona nije na snazi te će se podaci o njezinom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Uz članak 5.

Člankom 5. uređuje se stupanje na snagu Zakona.

Prilog - preslika Konvencije Centra za provedbu zakona u jugoistočnoj Europi, u izvorniku na engleskom jeziku

**CONVENTION OF
THE SOUTHEAST EUROPEAN LAW
ENFORCEMENT CENTER**

The Parties to this Convention, being Contracting Parties to the Agreement on Cooperation to Prevent and Combat Transborder Crime, done at Bucharest, Romania on May 26, 1999 (hereinafter referred to as "Member States");

Recognizing the value and advances of the cooperation, structures and procedures established and developed under the auspices of the Southeast European Cooperative Initiative (SECI);

Acknowledging that it is incumbent on all democratic nations to establish a society founded in freedom, security and justice;

Respecting the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Aware that criminals have no respect for borders and are disposed to exploit the same to the detriment of equity and justice;

Having in mind that criminal entrepreneurs debase and corrupt legitimate economies, societies and the rule of law through trans-national criminal markets and the forging of international illicit trade alliances;

Considering that it is the responsibility of all governments in the interests of their citizens to engage in effective measures to counter crime and the causes of crime while fully respecting the fundamental rights of individuals including the protection of personal data;

Recognizing the important role that effective exchange of information among law enforcement agencies has in preventing and combating all forms of crime and serious crime, including terrorism;

Regarding it to be in the common interest to capitalize on the advantages and opportunities created by the SECI Regional Center for Combating Transborder Crime (SECI Center) and anticipating the advancement of those advantages and opportunities in a new international organization;

Considering international treaties in the field of trans-border crime and cooperation in law enforcement, as well as the EU acquis to the extent applicable;

And pursuant to this common aim and interest in generating enhanced mechanisms for effective cooperation between competent law enforcement agencies;

Acknowledging that the European Union has assigned to the European Police Office (Europol) the driving role as the EU law enforcement body supporting the fight against organized crime and other forms of serious crime and seeking to reach operational complementarities for the mutual benefit of SELEC and Europol;

Have agreed as follows:

TITLE I
Establishment, Objective and Tasks

Article 1
Establishment

The Member States hereby establish the Southeast European Law Enforcement Center (hereinafter referred to as "SELEC") to serve as a framework for cooperation among their competent authorities in order to fulfill the objectives of SELEC.

Article 2
Objective

The objective of SELEC, within the framework of cooperation among Competent Authorities, is to provide support for Member States and enhance coordination in preventing and combating crime, including serious and organized crime, where such crime involves or appears to involve an element of trans-border activity.

Article 3
Tasks

In accordance with Article 2, SELEC shall have the following tasks:

- (a) to support investigations and crime prevention activity in Member States and in accordance with this Convention;
- (b) to facilitate the exchange of information and criminal intelligence and requests for operational assistance;
- (c) to notify and inform the National Focal Points of Member States of connections between suspects, criminals or crimes related to the SELEC mandate;
- (d) to collect, collate, analyze, process and disseminate information and criminal intelligence;
- (e) to provide strategic analysis and to produce threat assessments related to the SELEC objective;
- (f) to establish, operate and maintain a computerized information system;
- (g) to act as a depository of good practice in law enforcement methods and techniques and to promote the same through multi-national training and conferences for the benefit of Member States;
- (h) to undertake other tasks consistent with the objective of this Convention, following a decision by the Council.

Article 4 Definitions

For the purposes of this Convention:

- (a) "SECI Center" shall mean the Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime established by the Agreement on Cooperation to Prevent and Combat Trans-border Crime done at Bucharest, Romania on May 26, 1999;
- (b) "Law enforcement" shall refer to all activity aimed at preventing and combating crime. It includes, but is not limited to, the work of customs, police and border guards where that work falls under the SELEC mandate;
- (c) "Competent authority" shall mean any public body existing within a Member State or Operational Partner which is responsible for law enforcement under national law;
- (d) "Multi-agency" shall mean the combination of different competent authorities involved in a single enterprise. Specifically in this Convention, it means a combination of border guards, police, customs and other competent authorities;
- (e) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (f) "Organized crime" shall mean any crime conducted by a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences;
- (g) "Trans-border activity" shall mean any illegal activity which is conducted or is intended to be conducted in the territory of more than one Member State;
- (h) "Person" shall mean any natural or legal person;
- (i) "Personal data" shall mean all information relating to an identified or identifiable natural person ("data subject");
- (j) "Processing" of personal data (processing) shall mean any operation or set of operations which is performed upon personal data, such as collection, recording, organization, storage, adoption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction as well as transfer of personal data across national borders;

- (k) "Need to know" shall mean where a recipient of data or information requires knowledge of that information for a specific and authorized need established by reference to his or her post, role, office or function;
- (l) "Third Party" shall mean a state or international organization or body which is not a Member State, Operational Partner, or Observer.

TITLE II Legal Status and Organization

Article 5 Legal Status

- (1) SELEC shall have international legal personality.
- (2) SELEC shall have in each Member State legal and contractual capacity under that State's law.
- (3) In particular, it shall have the capacity:
 - (a) to contract;
 - (b) to acquire and dispose of movable and immovable property;
 - (c) to be a party to legal proceedings.

Article 6 Privileges and Immunities

- (1) SELEC, the representatives of the Member States, the Liaison Officers, Director General, Directors, the SELEC Staff, and the representatives of the Operational Partners shall enjoy the privileges and immunities necessary for the performance of their tasks, in accordance with a Protocol that shall be concluded by the Member States.
- (2) SELEC shall conclude a headquarters agreement with the Host Country.

Article 7 Organs of SELEC

The Organs of SELEC shall be:

- (a) the Council;
- (b) the Secretariat.

Article 8
Council.

- (1) The Council shall be the supreme decision-making body of SELEC.
- (2) The Council shall consist of one representative designated with his or her alternate from each Member State. Each representative may be supported by a delegation.
- (3) Members of the Council shall be high level officials with authority to act on behalf of their States. When a member of the Council is unable to attend a meeting, he or she shall be replaced by his or her alternate.
- (4) The Council shall have a Chairperson selected by annual alphabetical rotation among the Member States.
- (5) Each Member State shall have one vote in the Council.
- (6) The Council shall meet at least once a year.
- (7) The Council shall have the following tasks:
 - (a) approve the SELEC strategic plan and annual action plan;
 - (b) annually approve the SELEC budget and define Member States' financial contributions;
 - (c) approve tasks for the SELEC other than those set forth in Article 3 of this Convention;
 - (d) elect and dismiss the Director General and Directors, and establish their terms and conditions of employment in accordance with this Convention;
 - (e) adopt the Security Manual;
 - (f) appoint a Data Protection Officer, who shall be a member of the SELEC Staff;
 - (g) appoint external financial auditors for SELEC in accordance with this Convention;
 - (h) endorse the SELEC annual report;
 - (i) authorize the Director General to negotiate agreements, including memoranda of understanding, with the Host Country or Third Parties and, if appropriate, to define negotiating positions;
 - (j) approve the conclusion of agreements, including memoranda of understanding, with the Host Country or Third Parties;

- (k) establish criteria for admission for new membership to the SELEC ;
 - (l) approve applications for membership by States and their admission to the SELEC;
 - (m) approve applications by any Third Party to become an Observer or an Operational Partner;
 - (n) adopt its own rules of procedure, as well as rules of procedure and regulations necessary for the proper implementation of this Convention, including Guidelines for Observers;
 - (o) comply with other tasks as defined elsewhere in this Convention.
- (8) In executing the tasks set forth above in items a, b, c, e, i, j, k, l, m and n of paragraph (7), the Council shall decide by consensus of all Member States. In executing all other tasks, the Council's decisions must be reached by two-thirds majority of all Member States, unless otherwise provided in this Convention.
- (9) The Council may establish committees and working groups to assist its work.

Article 9 Secretariat

- (1) The Secretariat shall consist of:
- (a) the Director General;
 - (b) the Directors;
 - (c) the SELEC Staff.
- (2) In the performance of their duties, the Director General, the Directors and the SELEC Staff shall not seek, receive or act on instructions from any government or from any other authority external to SELEC.
- (3) Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General, the Directors and the SELEC Staff and shall not seek to influence them in the discharge of their responsibilities.

Article 10 Director General

- (1) SELEC shall be headed by a Director General who shall function as its chief executive officer and legal representative.
- (2) The Director General shall be elected for a term of 4 years. The Director General may be reelected only once.

(3) The Director General shall be a citizen of one of the Member States and shall be elected by the Council following an open and public procedure.

(4) The Director General shall be accountable to the Council with respect to the performance of his or her duties.

(5) The Director General shall be responsible for:

- (a) the effective management of SELEC;
- (b) preparing and implementing the strategic plan, the annual action plan and the budget;
- (c) preparing and submitting to the Council the annual reports;
- (d) promoting and developing relations with Member States and Third Parties;
- (e) negotiating and concluding agreements on the acceptance of other income as provided in Article 36, paragraph (2);
- (f) drafting and proposing rules of procedure and regulations necessary for the proper implementation of this Convention;
- (g) representing SELEC and its interests;
- (h) designating a Director to act on his or her behalf in the event of absence or incapacity;
- (i) performing other tasks as necessary in compliance with the provisions of this Convention.

Article 11 Directors

(1) The Director General shall be assisted by one or more Directors. The Council shall define the number, function, and roles of the Directors.

(2) Directors shall be elected for a term of 3 years. Directors may be reelected only once.

(3) Each Director shall be a citizen of one of the Member States and shall be elected by the Council following an open and public procedure.

(4) The Directors shall be accountable to the Director General for the tasks assigned to them.

Article 12
SELEC Staff

- (1) SELEC Staff shall consist of all persons working under the authority and control of the Director General and Directors.
- (2) SELEC Staff shall consist of nationals of Member States, taking into account the adequate representation of all Member States.
- (3) Staff Regulations shall include the rules, principles and procedures governing the selection of staff, their recruitment, classification of posts, and the efficient operation of SELEC's Secretariat in attainment of the objective of this Convention.

Article 13
National Units

- (1) The National Units shall be established by the Member States for the purpose of implementing the objective of this Convention.
- (2) The National Units shall consist of:
 - (a) Liaison Officers;
 - (b) National Focal Points.

Article 14
Liaison Officers

- (1) For the purposes of police and customs cooperation, each Member State shall post at least one Liaison Officer to work at the headquarters of SELEC.
- (2) The SELEC Liaison Officers shall work under the national laws of the appointing Member States and represent the interests of those States and all their national competent authorities equally. However, their work shall also be regulated by the terms of this Convention. The SELEC Liaison Officers shall respect the internal rules and regulations of SELEC.
- (3) Prior to appointment, any SELEC Liaison Officer shall have undergone a security screening procedure according to national requirements allowing access to law enforcement and/or classified information.
- (4) In cases where the conduct of a Liaison Officer is not satisfactory in terms of this Convention, the Director General may report to the sending Member State accordingly.
- (5) SELEC Liaison Officers shall not represent his or her Member State as a delegate to the Council.
- (6) All costs relating to the appointment and posting of a SELEC Liaison Officer shall be funded by the Member State. However, SELEC shall provide from its budget

reasonable and adequate office accommodation and equipment for that Liaison Officer to perform his or her duties.

Article 15 National Focal Points

(1) In furtherance of the aims of this Convention, the Member States shall establish or designate a multi-agency office or unit, which shall serve as the National Focal Point.

(2) The National Focal Point shall act as the single point of contact in the Member State for communications with SELEC, through the Liaison Officers of the given Member State.

(3) The National Focal Point shall be adequately staffed and provided with all necessary equipment, resources and facilities required to perform its tasks as defined in this Convention.

(4) The National Focal Point and its Staff shall be governed by national law, but will conduct its affairs with reference to this Convention and shall, in particular, comply with the principles of data protection contained in this Convention.

Article 16 Headquarters and Official Language

(1) SELEC shall be located in Bucharest, Romania.

(2) The Host Country shall ensure without payment the building and the current and capital repairs to the infrastructure of the SELEC.

(3) The official language of SELEC shall be English.

TITLE III Information System and Data Security

Article 17 Information Exchange System

(1) According to the stages set forth in this Article, SELEC shall establish and maintain a computerized information system for holding and processing data necessary to the performance of its tasks as laid down in Article 3. This information system shall include any stand alone hardware or independently structured database and all information technology under the control of SELEC.

(2) SELEC shall conduct information exchanges and joint operations, in which SELEC through Liaison Officers and representatives of Operational Partners shall obtain data, including personal data.

(3) In all instances, SELEC's processing of personal data shall be subject to limitations imposed by the provider of the data and subject to the data protection procedures developed to satisfy the principles of data protection set out in this Convention and other applicable requirements of national law and bilateral or multilateral international agreements. SELEC shall store data in such a way that it can be established by which Member State, Operational Partner, Observer, or Third Party the data were transmitted or whether they are the result of an analysis by SELEC.

(4) To the extent and after such time that data protection procedures appropriate to the task have been established and implemented, SELEC shall then proceed to enhance its ability to assist Member States and enhance coordination among them in preventing, detecting and combating serious trans-border crime by maintaining and indexing such personal data for use in subsequent investigations involving SELEC and its Operational Partners.

(5) Subsequently, to the extent and after such time that data protection procedures appropriate to the task have been established and implemented, SELEC shall then proceed to establish and maintain one or more databases, which may include personal and non-personal data. Such data shall be collected in the context of SELEC's participation in concrete cases, as well as outside the context of concrete cases as provided by Member States, Operational Partners, Observers and Third Parties, and SELEC shall analyze and process such data in an effort to prevent, detect, and investigate serious trans-border crime.

(6) The Director General or any Member State may propose to the Council that it is appropriate to move to the next stage pursuant to this Article. In evaluating such a proposal, the Council shall consult the Joint Supervisory Body. The Council must decide by consensus if data protection procedures appropriate to the task have been implemented and whether to proceed to the next stage, as described in paragraph (4) and (5).

(7) The information systems operated by SELEC must under no circumstances be linked to other automated processing systems, except for the automated processing systems of the National Units.

(8) SELEC shall be responsible for and shall take all necessary measures for the proper working and implementation of the information system in technical and operational respects.

Article 18 Use of Information System

(1) In establishing and maintaining an information system, SELEC and Member States shall take necessary and adequate technical precautions, and shall establish control mechanisms, to ensure the integrity and adequacy of the data in the information system, to prevent accidental or unauthorized erasure, modification, or dissemination and to prevent unauthorized access.

(2) In order to perform its task the SELEC information system shall be accessible on a "need to know" basis by:

- (a) National Focal Points;
- (b) Liaison Officers;
- (c) Directors and SELEC Staff authorized by the Director General;
- (d) Operational Partners authorized by the terms of their respective cooperation agreements.

(3) Data may be input into SELEC information system only by:

- (a) National Focal Points;
- (b) Liaison Officers;
- (c) Directors and SELEC Staff authorized by the Director General;
- (d) Operational Partners authorized by the terms of their respective cooperation agreements.

(4) Access to or input of data into the SELEC information system may only be carried out by persons who have been adequately trained and certified, as specified in the rules of procedure.

(5) All details concerning the data insertion, research or access shall be recorded in auditable format. Such details shall be stored in the SELEC information system, in compliance with data protection rules as defined in this Convention.

Article 19 Data security

(1) SELEC shall take the necessary technical and organizational measures to ensure the implementation of this Convention with respect to data security.

(2) In respect of automated data processing at SELEC each Member State and SELEC shall implement measures designed to:

- (a) deny unauthorized persons access to data processing equipment used for processing personal data (equipment access control);
- (b) prevent the unauthorized reading, copying, modification or removal of data media (data media control);
- (c) prevent the unauthorized input of data and the unauthorized inspection, modification or deletion of stored personal data (storage control);

- (d) prevent the use of automated data processing systems by unauthorized persons using data communication equipment (user control);
- (e) ensure that persons authorized to use an automated data processing system only have access to the data covered by their access authorization (data access control);
- (f) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);
- (g) ensure that it is possible to verify and establish which personal data have been input into automated data or processing systems and when and by whom the data were input (input control);
- (h) prevent unauthorized reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media (transport control);
- (i) ensure that installed systems may, in case of interruption, be immediately restored (recovery);
- (j) ensure that the functions of the system perform without fault, that the appearance of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by means of a malfunctioning of the system (integrity).

Article 20 Classified Information

- (1) All information processed by or through SELEC, except information which is expressly marked or is clearly recognizable as being public information, shall be subject to a basic protection level within the SELEC organization as well as in the Member States. Information which is subject only to the basic protection level shall not require a specific marking of a SELEC security level, but shall be designated as SELEC data.
- (2) SELEC and the Member States shall take appropriate measures to protect classified information according to the requirement of confidentiality specified by the party providing the information on the basis of this Convention.
- (3) No person shall obtain access to classified information except with prior security screening and clearance by their national government according to its national law. The relevant authority under national provisions shall inform SELEC only of the results of the security screening, which shall be binding on SELEC.
- (4) The Council shall adopt a Security Manual which shall include, *inter alia*, detailed rules on the security measures to be applied within the SELEC organization and a security package corresponding to each classification level.

(5) SELEC shall use the following classification levels: "restricted", "confidential", "secret" and "top secret".

(6) The responsibility for the practical implementation of the security measures laid down in the Security Manual shall lie with the Director General.

TITLE IV Personal Data Protection

Article 21 Personal Data

(1) Personal data entered to the SELEC Information System shall relate to persons who, in accordance with the national law of the Member State concerned, are the subjects of an investigation relating to a criminal offense in respect of which SELEC is competent or who have been convicted of such an offence;

(2) Data related to persons referred to in paragraph (1) may include only the following details:

- (a) surname, maiden name, given names and any alias or assumed name;
- (b) date and place of birth;
- (c) citizenship;
- (d) sex;
- (e) place of residence, profession and whereabouts of the person concerned;
- (f) driving licenses, identification documents and passport data; and
- (g) where necessary and available, other characteristics likely to assist in identification, including any specific objective physical characteristics not subject to change, and Personal or other Identification Number.

(3) In addition to the data referred to in paragraph (2), the SELEC Information System may also be used to process the following details concerning the persons referred to in paragraph (1):

- (a) criminal offences and when, where and how they were committed;
- (b) means which were or may be used to commit the criminal offences;
- (c) suspected membership of a criminal organization;
- (d) convictions, where they relate to criminal offences in respect of which SELEC is competent;

- (4) The SELEC Information System may also include:
- (a) data referred in paragraph (3) (a) and (b) when they do not yet contain any references to natural persons;
 - (b) any other data which are or may be involved in criminal cases not directly related to natural persons including commodities, means of transport, businesses, and any technical means used for identification of these.

Article 22
Standard of Personal Data Protection

SELEC shall apply principles on the protection of personal data processed by SELEC taking into account the level of protection and administrative practice in the Member States and according to the standards and principles of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, and of Recommendation No. R (87) 15 of the Committee of Ministers of the Council of Europe of 17 September 1987. SELEC shall observe these principles in the processing of personal data, including non-automated data held in the form of data files.

Article 23
Principles of Personal Data Protection

- (1) Pursuant to this Convention, any personal data will only be processed in accordance with the following principles and enforcement mechanisms:
- (a) personal data shall only be processed for the purpose of the objectives and tasks of SELEC;
 - (b) processing of personal data must be fair and lawful
 - (c) processing of personal data must be adequate, relevant and not excessive in relation to the purposes for which they were initially collected;
 - (d) data must be accurate and kept up to date and the quality and integrity of personal data processed by SELEC shall be maintained;
 - (e) technical and organizational security measures should be taken that are appropriate to the risks presented by the processing;
 - (f) SELEC shall process personal data in a manner that is transparent, consistent with its law enforcement objective and tasks;
 - (g) any data subject shall have access to his or her personal data maintained by SELEC, consistent with SELEC's law enforcement objective and tasks;

- (h) any data subject shall have an appropriate right of redress with respect to his or her personal data maintained by SELEC, consistent with SELEC's law enforcement objective and tasks;
 - (i) the processing of personal data by SELEC shall be subject to oversight by an independent Joint Supervisory Body, established pursuant to this Convention.
- (2) Personal data revealing racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, and data concerning health or sex life may not be processed unless such data are strictly necessary for the purposes of a specific investigation in which SELEC is involved and only if the transmission of this data to SELEC for such processing is permitted by the national law of the transmitting party. It shall be prohibited to select a particular group of persons solely on the basis of the data listed in the first sentence of this paragraph.

Article 24

Restrictions on Access to Particular Items of Personal Data

- (1) An authority providing personal data may restrict access to individual items of such data by other Member States or Operational Partners.
- (2) The transmitting Member State or Operational Partner or SELEC can agree with the intended recipient on restrictions on the use of data and the transmission to Third Parties. These restrictions should include measures to ensure consistency with the principles set forth in Article 23 of this Convention.

Article 25

Time limits for the storage and deletion of personal data

- (1) Personal data in the Information System shall be held only for as long as is necessary for the performance of SELEC's tasks. The need for continued storage shall be reviewed no later than three years after the input of personal data. Review of personal data stored in the Information System and its deletion shall be carried out by the inputting party.
- (2) During the review, the inputting party referred to in paragraph (1) may decide on continued storage of personal data until the next review which shall take place after another period of three years if this is still necessary for the purpose of its processing. If no decision is taken on the continued storage of personal data, those personal data shall automatically be deleted by the SELEC. SELEC shall automatically inform the inputting parties three months in advance of the expiry of the time limits for reviewing the storage of personal data.

Article 26
Further Processing

(1) Nothing in this Convention shall prohibit or hinder law enforcement authorities from cooperating and exchanging data in concrete cases and investigations, provided that such cooperation and exchange of data includes measures to ensure consistency with the principles mentioned in Article 23 of this Convention. However, transmission of data cannot take place if the use of the transmitted data could violate human rights or rule of law principles.

(2) Further processing of personal data for a purpose other than the purpose for which the personal data was provided shall be only permitted insofar as:

- (a) it is not incompatible with the purpose for which the data are processed by SELEC; and
- (b) the inputting Member State or Operational Partner has given its prior consent; and
- (c) the processing authority is responsible for the prevention, investigation, detection or prosecution of criminal offences within SELEC's objective.

(3) Transfer of personal data to Third Parties or Observers may only take place with the prior consent of the inputting party in accordance with its legislation and in accordance with its evaluation of the adequate level of protection of personal data in the receiving Third Party or Observer.

Article 27
Data Protection Officer

(1) The Council shall appoint a Data Protection Officer, who shall ensure compliance with the data protection provisions of this Convention, according to functions assigned by the Council. When assigning such functions, the Council shall ensure that the functions of the Data Protection Officer are defined so that they do not interfere with the operation of SELEC in concrete cases. In the performance of his or her duties, the Data Protection Officer shall act independently.

(2) The Data Protection Officer shall perform in particular the following tasks under the direct authority of the Council:

- (a) ensuring, in an independent manner, lawfulness and compliance with the provisions of this Convention concerning the processing of personal data;
- (b) ensuring that a written record of the transmission and receipt of personal data is kept in accordance with this Convention;
- (c) ensuring that data subjects are informed of their rights under this Convention at their request;
- (d) cooperating with SELEC Staff responsible for procedures, training and advice on data processing;

(e) cooperating with the Joint Supervisory Body.

(3) In the performance of the tasks described in paragraph (2), the Data Protection Officer shall not take any instructions from the Director General, Directors, a Member State, or any other source. In the performance of these tasks, the Data Protection Officer shall have access to all the data processed by SELEC and to all SELEC premises.

(4) If the Data Protection Officer considers that the provisions of this Convention concerning the processing of personal data have not been complied with, he shall inform the Director General and the Council. If the Director General does not resolve the non-compliance of the processing within 60 days, the Data Protection Officer shall inform the Council, which shall acknowledge receipt of the information. If the Council does not resolve the non-compliance of the processing within a reasonable time, the Data Protection Officer shall refer the matter to the Joint Supervisory Body.

(5) The Council may determine additional tasks of the Data Protection Officer. Further implementing rules concerning the Data Protection Officer shall be adopted by the Council. The implementing rules shall in particular concern selection and dismissal, tasks, duties and powers of the Data Protection Officer.

Article 28

Responsibility in personal data protection matters

(1) The responsibility for personal data processed at SELEC, in particular as regards the legality of the collection, the transmission to SELEC and the input of personal data, as well as their accuracy, their up-to-date nature and verification of the storage time limits, shall lie with:

- (a) the Member State, Operational Partner, Observer or Third Party that made available the personal data;
- (b) SELEC in respect of data which result from analyses conducted by SELEC.

(2) In addition, SELEC shall be responsible for all personal data processed by it, from the moment it includes such data in one of its automated or non-automated data files. Personal data which has been transmitted to SELEC but not yet included in SELEC's information system shall remain under the data protection responsibility of the party transmitting the data. However, SELEC shall be responsible for ensuring that until such personal data have been included in a data file, they may only be accessed by authorized SELEC officials for the purpose of determining whether they can be processed at SELEC, or by authorized officials of the party which supplied the data. If SELEC, after appraisal, has reason to assume that data supplied are inaccurate or no longer up-to-date, it shall inform the party which supplied the data.

Article 29

Liability for unauthorized or incorrect data processing

(1) Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual as a result of legal or factual errors in personal data. Only the Member State in the territory of which the damage has occurred may be the subject of an action for compensation on the part of the injured individual. A Member State may not plead that another Member State had transmitted inaccurate data in order to avoid its liability under its national legislation vis-a-vis an injured party.

(2) If these legal or factual errors occurred as a result of data erroneously communicated or of failure to comply with the obligations of this Convention on the part of one or more Member States or as a result of unauthorized or incorrect storage or processing by SELEC, the Member State or States in question or SELEC, accordingly, shall be bound to refund, on request, to the Member State which compensated the injured individual, the amounts paid as compensation, unless the data in question were used by the latter in breach of this Convention. This principle may also apply to Operational Partners, if their cooperation agreement with SELEC so provides.

(3) Any dispute between the Member States which compensated the injured individual and SELEC or another Member State over the principle or amount of the refund shall be referred to the Council, in accordance with Article 50.

Article 30

Right of access of the data subject

(1) Any person shall be entitled, at reasonable intervals, to obtain confirmation whether personal data relating to him or her is processed by SELEC and to have communication to him or her of such data in an intelligible form.

(2) Any person wishing to exercise his or her rights under this Article may make a request free of charge at SELEC.

(3) The request shall be answered by SELEC without undue delay and in any case within three months following its receipt by SELEC in accordance with this Article.

(4) The provision of information in response to a request under paragraph 1 shall be refused to the extent that such refusal is necessary to:

- (a) enable SELEC to fulfill its objectives and tasks properly;
- (b) protect security and public order in the Member States or to prevent crime;
- (c) protect the rights and/or freedoms of third persons; or
- (d) guarantee that any national or joint investigation will not be jeopardized.

(5) When assessing the applicability of an exemption under paragraph (4), the interests of the person concerned must be taken into account.

(6) Prior to its decision on a response to a request, SELEC shall consult the competent law enforcement authorities that provided the data. SELEC shall refuse to provide information if one or more competent law enforcement authorities or SELEC decide that the request must be refused under paragraph (4). An authority deciding on refusal shall notify SELEC of the reasons for its decision.

(7) If the provision of information in response to a request under paragraph (1) is refused, SELEC shall notify the person concerned his or her request has been considered and refused pursuant to this Convention, without giving any information which might reveal to him or her whether or not personal data concerning him or her are processed by SELEC. The reasons for a refusal shall be recorded by SELEC.

Article 31

Correction and deletion of data

(1) Any data subject shall have the right to ask SELEC in writing to correct or delete incorrect data concerning him/her. If it emerges, either on the basis of the exercise of this right or otherwise, that data held by SELEC which have been communicated to it by Third Parties or which are the result of its own analyses are incorrect or that their input or storage contravenes this Convention, SELEC shall correct or delete such data.

(2) If incorrect data have been transmitted by another appropriate means or if the errors in the data supplied by Member States or Operational Partners are due to faulty transmission or have been transmitted in breach of the provisions of this Convention or if they result from their being entered, taken over or stored in an incorrect manner or in breach of the provisions of this Convention by SELEC, SELEC shall be obliged to correct or delete the data in collaboration with the Member States and Operational Partners concerned.

(3) In the cases referred to in paragraphs (1) and (2), the Member States or Operational Partners that have received the data shall be notified forthwith. The recipient Member States or Operational Partners shall also correct or delete those data according to applicable regulations.

(4) Except as provided in Article 30, paragraphs (4) and (5), SELEC shall inform the data subject in writing and without undue delay and in any case within three months that data concerning him or her have been corrected or deleted.

Article 32

Appeals

(1) In its reply to a request for a check, for access to data, or a request for correction and deletion of data, SELEC shall inform the data subject that he or she has the right to appeal to the Joint Supervisory Body and of the time limit for such appeal.

(2) Every data subject has the right to appeal to the Joint Supervisory Body if he or she is not satisfied with the SELEC response to a request or if there has been no response to the request within the time limits laid down in Articles 30 or 31. Such appeal must be lodged within 30 days of the date the response is received or of the expiration of the time limits laid down in Articles 30 or 31.

(3) The Joint Supervisory Body shall examine and decide the appeal at its next meeting. The decision of the Joint Supervisory Body on an appeal shall be final and binding on all parties to the appeal.

(4) Where the appeal relates to a response to a request as referred to in Article 30 or 31, the Joint Supervisory Body shall consult the competent data protection authorities in the Member State or Operational Partner which was the source of the data or the Member States or Operational Partners directly concerned.

(5) In the event that the appeal relates to decision referred to in Article 30 or 31 that is based on an objection pursuant to Article 30, paragraph (4), by SELEC, a Member State or Operational Partner, the Joint Supervisory Body shall only be able to overrule such objections by consensus after having heard SELEC and the concerned Member States or Operational Partners. If there is no such consensus, the Joint Supervisory Body shall notify the refusal to the enquirer, without giving any information which might reveal the existence of any personal data about the enquirer.

Article 33 National supervision

(1) Each Member State shall ensure independent national supervision, by designating an authority, in accordance with its national law, of its activities under this Convention with respect to personal data protection matters, and taking into account the international standards and principles of personal data protection established by the Council of Europe.

(2) Without prejudice to Article 29, the Member States provide for the right of every person, regardless of his or her nationality or residence, to a judicial remedy for any breach of the rights guaranteed him or her by the national law applicable to the processing in question.

(3) SELEC shall take necessary measures to facilitate such national supervision, including by providing access to the applicable Liaison Officers' premises.

(4) Member States shall inform the Joint Supervisory Body of any findings relating to personal data protection concerning SELEC that result from such supervision.

Article 34 Joint Supervisory Body

(1) An independent Joint Supervisory Body shall be set up to hear appeals pursuant to Article 32, and to review the procedures and practices at SELEC to

ensure that they comply with the data protection provisions of this Convention. The Joint Supervisory Body shall be made up of one representative from each Member State who shall be independent as regards personal data protection matters according to national law. The Joint Supervisory Body shall determine its rules of procedure. In the performance of their duties, the members of the Joint Supervisory Body shall not receive instructions from any other body.

(2) The Joint Supervisory Body shall conduct periodic reviews at least one time per year.

(3) SELEC shall assist the Joint Supervisory Body in the performance of the latter's tasks. In doing so, it shall in particular:

- (a) supply the information the Joint Supervisory Body requests, give it access to all documents and paper files as well as access to the data stored in its data files;
- (b) allow the Joint Supervisory Body free access at all times to all its premises;
- (c) implement the Joint Supervisory Body's decisions on appeals.

(4) If the Joint Supervisory Body identifies any violations of the provisions of this Convention in the storage, processing or utilization of personal data, it shall bring the matter to the attention of the Director General and shall request him to reply within a time limit specified by the Joint Supervisory Body. The Director General shall keep the Council informed of the entire procedure. If it is not satisfied with the response given by the Director General to its request, the Joint Supervisory Body shall refer the matter to the Council.

(5) The Joint Supervisory Body shall inform the Director General and the Council about its reviews and make any necessary recommendations regarding data protection procedures and practices. The Director General and the Council shall consider such recommendations, and take all appropriate steps to correct any problems with procedures and practices.

(6) The Joint Supervisory Body shall draw up and make public activity reports at regular intervals.

TITLE V Financial Provisions

Article 35 Budget

(1) The SELEC budget shall be established on an annual basis. The financial year shall run from 1 January to 31 December.

(2) The budget shall set forth total income and total expenditures for the year. The budget shall balance, with total annual income always covering total annual expenditures.

(3) The Council shall consider and approve the budget by 31 May of each year at the latest. The budget may be revised by the Council.

(4) A five-year financial plan shall be considered and adopted and may be revised together with the annual budget.

Article 36

Income

(1) The budget shall be financed from contributions from the Member States and by other income.

(2) Other income may include donations, subsidies or other funds from national governments, international organizations or other public sources, and; subject to prior approval of the Council, private sources.

(3) Failure of fulfillment of financial obligations by any Member State shall be submitted to the Council for consideration.

Article 37

External Financial Audit

The financial records of SELEC, including the accounts established pursuant to the budget showing income and expenditures, and the balance sheet showing SELEC's assets and liabilities, shall be subject to an external financial audit.

Article 38

Financial Rules and Regulations

Financial Rules and Regulations shall be considered and adopted by the Council.

TITLE VI

Participation

Article 39

Membership

The Members of SELEC are the Parties to this Convention.

Article 40
Admission

- (1) SELEC is open for admission to any State which has a particular interest in law enforcement cooperation in the Southeast European Region and which applies for membership, agrees with the objective and tasks of the SELEC as set forth in this Convention, and satisfies criteria established by the Council.
- (2) Applications for membership shall be submitted to the Council for consideration and approval. Once the approval is obtained the applicant State shall be invited by the Council to accede to this Convention pursuant to Article 45.

Article 41
Operational Partner Status

- (1) Operational Partner status in SELEC shall be open upon request to any State or international organization or body that expresses its readiness to cooperate with SELEC, agrees to provide support to SELEC, and concludes a cooperation agreement with SELEC.
- (2) After the Council has decided that an applicant fulfills the conditions requested for starting negotiations for the Operational Partner status, the Director General shall negotiate the cooperation agreement with that applicant.
- (3) The cooperation agreement shall set forth, inter alia, appropriate regulations on personal data protection, security measures, financial relations, and settlement of disputes between the SELEC and the Operational Partner. Once the draft text of the cooperation agreement has been approved by the Council, it shall be signed by the Director General on behalf of SELEC.
- (4) Operational Partner status may be suspended or terminated by decision of the Council.
- (5) An Operational Partner may post, at its cost, representatives at the Headquarters of SELEC for the purposes of the implementation of the cooperation agreement.

Article 42
Observer Status

- (1) Observer status in SELEC shall be open upon request to any State or international organization or body that expresses its readiness to cooperate with and to make a contribution to SELEC.
- (2) Observers may be invited to attend the meetings of the Council. Observer status shall not grant the right to participate in operational activities and to exchange personal or classified data or information.

(3) Observer status may be granted, suspended or terminated by a decision of the Council, adopted in accordance with the conditions set forth in the Guidelines for Observers.

Article 43

Relations with Law Enforcement Organizations and Bodies

(1) SELEC shall make efforts to establish mutually beneficial relationships with European and other international law enforcement organizations or bodies, inter alia Europol, Interpol and the World Customs Organization, in order to enhance effective law enforcement cooperation.

(2) In establishing its relationship with Europol and even prior to the conclusion of a cooperation agreement, SELEC may make use of, inter alia, Europol's strategic and operational analysis capacity if Europol offers this capacity. To this end, SELEC and Europol may agree on the posting of one or more representatives at the headquarters of SELEC and Europol.

TITLE VII Liability

Article 44 Liability

(1) Any contractual liability involving SELEC shall be governed by the law applicable in the State in which the contract has effect, except where the contract stipulates otherwise.

(2) In the case of non-contractual liability, SELEC shall be obliged to make good any damage caused through the fault of its Organs, Director General, Directors and SELEC Staff in the performance of their duties.

TITLE VIII Final Provisions

Article 45

Signature, Ratification, Acceptance, Approval and Accession

(1) This Convention shall be open for signature by the States Parties to the Agreement on Cooperation to Prevent and Combat Trans-border Crime, done at Bucharest, Romania on May 26, 1999.

(2) This Convention is subject to ratification, acceptance, or approval by the signatory States in accordance with their respective legal requirements.

(3) This Convention shall be open for accession by other States in accordance with the provisions of this Convention.

(4) Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

(5) Each Member State shall inform the Secretariat of its national competent authorities when depositing its instrument of ratification, acceptance, approval, or accession.

Article 46 Entry into Force

(1) This Convention shall enter into force on the sixtieth day following the date when nine State Parties to the Agreement on Cooperation to Prevent and Combat Trans-border Crime, done at Bucharest, Romania on May 26, 1999 have deposited their instruments of ratification, acceptance or approval.

(2) For each State that ratifies, accepts, approves or accedes to this Convention after the date of this Entry into Force, as provided for in paragraph (1), this Convention with respect to that State shall enter into force on the date of the deposit by the State of its respective instrument.

Article 47 Amendments

(1) This Convention may be amended on the proposal of any Member State.

(2) Any such proposal shall be communicated by the Director General to the Member States at least six months before submission to the Council for consideration and approval.

(3) Amendments to this Convention approved pursuant to paragraph (2) shall be subject to ratification, acceptance or approval by the Member States and shall enter into force according to the procedures set forth in Article 46.

Article 48 Reservations

No reservations may be made to this Convention.

Article 49 Transitional Provisions

(1) Upon the entry into force of this Convention, the Agreement on Cooperation to Prevent and Combat Trans-border Crime signed at Bucharest, Romania on May 26, 1999 shall cease to have effect.

- (2) All rights, obligations and property belonging to the SECI Center shall be transferred to the SELEC on the date when this Convention enters into force.
- (3) All SECI Center observers shall have the right to become Observers to SELEC by officially declaring to the Director General their intention to do so.
- (4) Observers to the SECI Center that wish to become Operational Partners to the SELEC shall apply for such status.
- (5) All Permanent Advisors to the SECI Center Joint Cooperation Committee by virtue of the SECI Agreement shall have the right to become Observers to SELEC by officially declaring to the Director General their intention to do so.
- (6) The Headquarters Agreement between Romania and the Regional Center of Southeast European Cooperative Initiative for Combating Trans-border Crime, done at Bucharest, Romania on October 2, 2000, remains in force until the headquarters agreement mentioned in Article 6, paragraph (2), between SELEC and the Host Country enters into force.

Article 50 Settlement of Disputes

In case of a dispute between two or more Member States or between a Member State and SELEC concerning the interpretation or application of this Convention, the parties concerned shall seek a solution through mutual consultations and negotiations. Should such consultations and negotiations fail to resolve the dispute within six months, the parties shall submit the dispute to the Council for consideration and appropriate action.

Article 51 Withdrawal

- (1) Each Member State may withdraw from this Convention at any time by written notification to the Secretariat and to the Depositary, which then shall transmit a certified copy of that notification to each Member State.
- (2) Withdrawal shall take effect three months from the date on which the notification was received by the Depositary. Activities or proceedings existing or ongoing at the time of withdrawal shall nonetheless be completed in accordance with the provisions of this Convention.
- (3) As far as financial obligations are concerned, such withdrawal shall take effect at the end of the financial year in which it is notified.
- (4) A Member State which withdraws shall continue to observe the provisions of this Convention concerning the protection of data exchanged pursuant to this Convention.

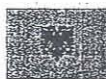
Article 52
Depositary

- (1) The Government of Romania shall act as Depositary of this Convention.
- (2) The Depositary shall transmit a certified copy of the original to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

The original of this Convention in a single copy in the English language shall be deposited with the Depositary which shall transmit a certified copy to each Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Convention.

Done at Bucharest, Romania on December 9, 2009.



Chargé d'affaires – Embassy

H.E. Mr. Luan TOPÇIU



Deputy Minister – Ministry of Security

H.E. Mr. Mijo KREŠIĆ



Deputy Minister – Ministry of Internal Affairs

H.E. Mr. Veselin VUCHKOV



Assistant Director General – Customs Administration

Mrs. Ivana SOIĆ



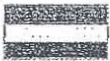
State Secretary – Ministry of Interior Affairs

B. Andonovska
.....
Ms. Violeta ANDONOVSKA



Deputy Minister – Ministry of Citizen Protection

Spyros Vougiass
.....
H.E. Mr. Spyros VOUGIAS



State Secretary – Ministry of Justice and Law Enforcement

Andras Turi
.....
Mr. Andras TURI



Minister – Ministry of Internal Affairs

Victor Catan
.....
H.E. Mr. Victor CATAN



Deputy Minister – Ministry of Interior Affairs and Public Administration

Nada Vukanic
.....
H.E. Mrs. Nada VUKANIĆ



State Secretary – Ministry of Administration and Interior

Marian Tutilescu
.....
Mr. Marian TUTILESCU



State Secretary – Ministry of Internal Affairs

Dragan Markovic
.....
Mr. Dragan MARKOVIĆ



Director General – Customs Administration

Rajko Skubic
.....
Mr. Rajko SKUBIC



Undersecretary – Undersecretariat of Customs

Maksut Mete
.....
Mr. Maksut METE

I hereby certify that this is a true copy of the sole original document in English language, deposited in the archives of the Ministry of Foreign Affairs.
Bucharest,
the 10th of December 2009

International Law and Treaties
Directorate

Ministry of Foreign Affairs of
Romania



Director
Victoria Gavrilescu
Victoria GAVRILESCU