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WORKING PAPER

from : the Netherlands Delegation

to : Working Party on Economic Questions (Data protection)

No. Cion prop.: 9400/92 ECO 221

Subject: Amended proposal for a Council Directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Delegations will find attached a Working Paper from the Netherlands delegation presenting their suggestions for Articles 18, 19 and 21.
Draft proposals for changing SYN 287 of the Netherlands

Article 18

1. Member States shall by law provide the categories in which the controller or his representative if any must notify the supervisory authority referred to in Article 30 in view of the potential risks to the rights and freedoms of data subjects.\(^1\)

2. Member States shall specify the information to be given in the notification as well as the way the notification should be done.\(^2\) It shall include at least:
   (a) the name and address of the controller and of his representative if any;
   (b) the purpose or purposes of the processing;
   (c) the third parties or categories of third party to whom the data might be disclosed.

3. The controller who is obliged to notify starts to carry out any wholly or partly automatic processing or a set of processing operations of the same type intended to serve a single purpose or several related purposes only thirty days after notification. The supervisory authority can determine within this time that it will examine the processing with regard to the rights and freedoms of individuals. This decision shall include a reasonable time within which the controller may not start the intended processing because of the examination. At the end of the examination the authority shall give its conclusions.

4. Any change in a notified processing affecting the information referred to in paragraph 2 shall be notified to the supervisory authority.

5. Member States may by law provide that some of the processing operations referred to in paragraph 4 shall be authorized either by an enactment or by prior decision of the supervisory authority.

Article 19

The controller of any processing that needs not be notified, is not released from any of the other obligations resulting from this Directive.

Article 21

1. Member States shall provide that the controller maintains a register of the processing operations that are not notified. The register shall as a minimum contain the information referred to in paragraph 2:

\(^1\) The burden of bureaucracy should be limited to those categories that form a real threat. The transparency of these categories will be enhanced.

\(^2\) This allows for simplifications.

\(^3\) It is up the supervisory authority to decide whether preventive control must be added to the ordinary repressive control according to article 30, § 2.
tion listed in Article 18(2)(b) and (c). Member states may exempt specific categories of processing operations from the obligation to be mentioned on this register if their existence and aim are evident.

2. Member States shall provide that a register of notified processing operations must be maintained by the supervisory authority. The register shall as a minimum contain the information listed in Article 18(2)(a) to (c).

3. The registers, mentioned in the paragraphs 1 and 2, may be inspected by any person subject to such restrictions as may be imposed by Member States on the same grounds as are set out in Article 14(1).

*The categories not to be mentioned parallel the categories in the Commission's proposal that can be exempted from notification.*

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