

DECISION OF THE EEA JOINT COMMITTEE

No 83/1999

of 25 June 1999

**amending Protocol 37 and Annex XI (Telecommunication Services)
to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Articles 98 and 101 thereof,

Whereas Protocol 37 to the Agreement was amended by Decision of the EEA Joint Committee No 74/1999 of 28 May 1999¹;

Whereas Annex XI to the Agreement was amended by Decision of the EEA Joint Committee No 37/1999 of 30 March 1999²;

Whereas Annex XI to the Agreement may include acts dealing with the protection of persons regarding the processing of personal data and its subtitles should, for the sake of transparency, be extended accordingly;

Whereas Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data³ is to be incorporated into the Agreement; whereas Chapter IV of that Directive is to be adapted for the purposes of the Agreement;

¹ OJ L ...

² OJ L ...

³ OJ L 281, 23.11.1995, p. 31.

Whereas, for the Agreement to function well, in particular in relation to the transfer of personal data to third countries, Protocol 37 to the Agreement is to be extended to include the Working Party on the Protection of Individuals with regard to the Processing of Personal Data set up by Directive 95/46/EC, and Annex XI is to be amended in order to specify the procedures for association with this Working Party,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be added to Protocol 37 of the Agreement after point 12 (Contact Committee on Television Broadcasting Activities):

- ‘13. Working Party on the Protection of Individuals with regard to the Processing of Personal Data (Directive 95/46/EC of the European Parliament and of the Council)’.

Article 2

The following shall be inserted in Annex XI to the Agreement after point 5d (Directive 97/67/EC of the European Parliament and of the Council):

‘Data Protection

- 5e. **395 L 0046:** Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) The Contracting Parties shall, within the framework of the EEA Joint Committee, exchange the information to which reference is made in Articles 25(3) and 26(3) first paragraph;
- (b) If, pursuant to Articles 25(4), 25(6), 26(3) second paragraph or 26(4), the Commission intends to adopt measures in accordance with Article 31, the EFTA States shall be informed in the same way as the EU Member States. If the Commission communicates measures to the Council in accordance with Article 31, the EFTA States shall be kept informed in due time of such a procedure. Any measures adopted in accordance with Article 31 shall be notified to the EFTA States in the same way as to the EU Member States. Pending a decision by the EEA Joint Committee to incorporate such measures into the Agreement, the EFTA States shall decide, and inform the Commission before the entry into force of the measures adopted in accordance with Article 31, whether they will apply these measures or not.

If an EFTA State has not taken any such decision, it shall apply the measures adopted in accordance with Article 31 at the same time as EU Member States.

If an agreement on the incorporation into the EEA Agreement of measures adopted in accordance with Article 31 cannot be reached in the EEA Joint Committee within twelve months after the entry into force of the measures, an EFTA State may discontinue any application of such measures and shall inform the Commission thereof without delay.

The other Contracting Parties shall, by derogation from Article 1(2) of the Directive, restrict or prohibit the free flow of personal data to an EFTA State which does not apply the measures adopted in accordance with Article 31 in the same way as these measures prevent the transfer of such data to a third country;

- (c) Notwithstanding any negotiations by the Commission pursuant to Article 25(5), an EFTA State may enter into negotiations on its own behalf. The Commission and the EFTA States shall keep each other informed and, upon request, shall hold consultations regarding such negotiations within the framework of the EEA Joint Committee;

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with the second subparagraph of Article 29(2) of Directive 95/46/EC of the European Parliament and of the Council, appoint one person, who shall represent the supervisory authority or authorities designated by each EFTA State to participate as observer, without the right to vote, in the meetings of the Working Party on the Protection of Individuals with regard to the Processing of Personal Data.

The EC Commission shall in due time inform the participants of the dates of the meetings of the Working Party and shall transmit to them the relevant information.'

Article 3

The texts of Directive 95/46/EC of the European Parliament and of the Council in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 4

This Decision shall enter into force on 26 June 1999, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee.

Article 5

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 25 June 1999.

*For the EEA Joint Committee
The President*

F. Barbaso

The Secretaries to the EEA Joint Committee

G. Vik E. Gerner