

**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 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.



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 Vougias
.....
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 VUKANIC



State Secretary – Ministry of Administration and Interior

Marian Tutilescu
.....
Mr. Marian TUTILESCU



State Secretary – Ministry of Internal Affairs

Dragan Markovic
.....
Mr. Dragan MARKOVIC



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

