

Thursday 9 October 2008

- having regard to Rules 75 and 83(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A6-0343/2008),
1. Gives its assent to the conclusion of the Protocol;
 2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the Swiss Confederation.

Establishment of the European Criminal Records Information System (ECRIS) *

P6_TA(2008)0465

European Parliament legislative resolution of 9 October 2008 on the proposal for a Council decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA (COM(2008)0332 — C6-0216/2008 — 2008/0101(CNS))

(2010/C 9 E/14)

(Consultation Procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2008)0332),
 - having regard to Article 31 and Article 34(2)(c) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0216/2008),
 - having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0360/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Should that proposal not be adopted prior to the entry into force of the Treaty of Lisbon, is determined to examine any such future proposal by urgent procedure, in close cooperation with national parliaments;
 6. Instructs its President to forward its position to the Council and the Commission.

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 1**Proposal for a decision
Recital 6a (new)**

(6a) This Decision is based on the principles already established by Council Framework Decision 2008/XX/JHA on the organisation and content of the exchange of information extracted from criminal records between Member States, and supplements and applies those principles from a technical standpoint.

Amendment 2**Proposal for a decision
Recital 9**

(9) In order to ensure the mutual understanding and transparency of the common categorisation, each Member State should submit the list of national offences and sanctions falling in each category referred to in the respective table, as well as the list of national criminal courts. Such information should be accessible to national judicial authorities in particular through any available electronic channels.

(9) In order to ensure the mutual understanding and transparency of the common categorisation, each Member State should submit the list of national offences and sanctions falling in each category referred to in the respective table, **together with a short description of the constitutive elements of the offence**, as well as the list of national criminal courts. Such information should be accessible to national judicial authorities in particular through any available electronic channels.

Amendment 3**Proposal for a decision
Recital 9a (new)**

(9a) The reference tables contained in Annexes A and B do not in any way aim to harmonise the types of offence or the sanctions set out therein, which will continue to be governed by national law.

Amendment 4**Proposal for a decision
Recital 13**

(13) Both reference tables of categories of offences and sanctions, as well the technical standards used for the exchange of information should require constant revision and regular updates. **Implementing powers in this respect were therefore delegated to the Commission assisted by a Committee. The regulatory procedure under Community law should apply mutatis mutandis for the adoption of measures necessary for the implementation of this Decision.**

(13) Both reference tables of categories of offences and sanctions, as well the technical standards used for the exchange of information, should require constant revision and regular updates.

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 5

Proposal for a decision
Recital 14

(14) Framework Decision 2008/XX/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters **should apply in the context the computerised exchange of information extracted from criminal records of Member States.**

(14) **In this context it is of paramount importance to adopt as soon as possible Council** Framework Decision 2008/XX/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, **providing for an adequate level of data protection and including the processing of personal data at national level.**

Amendment 6

Proposal for a decision
Article 3 — paragraph 5

5. In order to ensure efficient operation of ECRIS, the Commission shall provide general support and monitoring services.

5. In order to ensure efficient operation of ECRIS, the Commission shall provide general support and monitoring services **and verify that the measures set out in Article 6 are correctly implemented.**

Amendment 7

Proposal for a decision
Article 5 — paragraph 1 — point a

(a) the list of national offences in each of the categories referred to in the table of offences in Annex A. The list shall include the name or legal classification of the offence and reference to the applicable legal provision. It **may** also include a short description of the constitutive elements of the offence;

(a) the list of national offences in each of the categories referred to in the table of offences in Annex A. The list shall include the name or legal classification of the offence and reference to the applicable legal provision. It **shall** also include a short description of the constitutive elements of the offence;

Amendment 8

Proposal for a decision
Article 5 — paragraph 1 — point a — subparagraph 1a (new)

The translation of a description of a national offence from the original language of submission shall be the task and responsibility solely of each individual Member State requesting a translation and shall not be done by ECRIS. Once a translation has been completed, ECRIS shall offer the option of adding it to the database;

Amendment 9

Proposal for a decision
Article 6 — introductory part

The following implementing measures shall be adopted in accordance with the procedure referred to in Article 7:

Where necessary, and in accordance with Article 34(2)(c) and Article 39 of the EU Treaty, the Commission shall propose that the Council adopt all the measures needed to ensure an optimum functioning of ECRIS and its interoperability with national systems, such as:

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 10**Proposal for a decision
Article 7****Article 7** *deleted***Committee procedure**

1. Where reference is made to this Article, the Commission shall be assisted by a regulatory committee composed of representatives of the Member States and chaired by a representative of the Commission (the 'Committee').

2. The Committee shall adopt its rules of procedure.

3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

4. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

5. If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken and shall inform the European Parliament thereof.

6. The Council may act by qualified majority on the proposal, within three months from the date of referral to the Council.

If within that period the Council has indicated by qualified majority that it opposes the proposal, the Commission shall re-examine it. It may submit an amended proposal to the Council, re-submit its proposal or present a legislative proposal on the basis of the Treaty.

If, on the expiry of that period, the Council has neither adopted the proposed implementing act nor indicated its opposition to the proposal for implementing measures, the proposed implementing act shall be adopted by the Commission.