



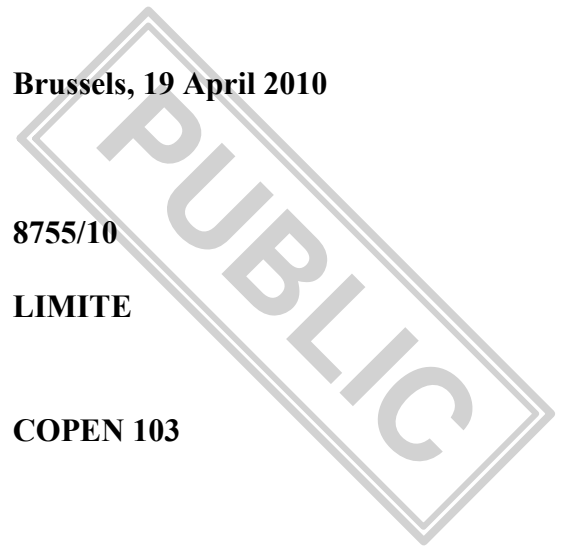
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 April 2010

8755/10

LIMITE

COPEN 103



NOTE

from:	Presidency
to:	delegations

Subject:	Exchange of information extracted from criminal records (ECRIS) - Implementation of the Council Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS) and the Council Framework Decision 2009/315/JHA on the exchange of information extracted from criminal records
----------	--

I. INTRODUCTION

The Council Decision 2009/316/JHA¹ on the establishment of the European Criminal Records Information System (ECRIS) was adopted by the Council in April 2009. This decision aims at implementing the Council Framework Decision 2009/315/JHA² on the exchange of information extracted from criminal records. By 7 April 2012 Member States shall take the necessary steps to comply with the ECRIS Decision. The implementation of both instruments will result in the setting up of a computerised system of exchange of information on convictions between the Member States of the EU. The system should be based on an electronic interconnection of the Member State's criminal records by the means of which the information will be exchanged in a standardised way.

¹ OJ L 93, 7.4.2009, p. 33

² OJ L 93, 7.4.2009, p. 23

Following the discussions of the Working Party on cooperation in criminal matters on 5 March 2010, delegations were requested to indicate to the Presidency their opinion concerning the offer made by the Commission to coordinate the preparatory works in respect of technical specifications for the implementation of ECRIS and to submit the draft specifications for discussion with and agreement by the Member States.

Nineteen Member States replied to the Presidency request¹. All Member States accepted the offer made by the Commission, however some of them mentioned certain conditions which, in their opinion, were indispensable for ensuring efficient conclusion of the process. These remarks and specific requests, made in the written observations received from delegations, are listed under point II of this document.

In this note, the Presidency, having consulted on the relevant points with Commission, aims at addressing the remarks made by the delegations. The Presidency believes, that on this basis a working method be established, which shall be followed in the process of preparation for the implementation of the ECRIS decision. The Commission confirmed that the remarks made by Member States shall be included as requirements in the contract signed with the contractor.

II. SPECIFIC OBSERVATIONS MADE BY THE DELEGATIONS

Observations made by the delegations are set out below followed by the response by the Presidency.

1. Relationship with the technical specifications established for the NJR project.

Delegations pleaded that technical specifications developed by the participating Member States for the purpose of the NJR should be incorporated into the future ECRIS technical specifications, and as such they should be adapted and adjusted to meet the requirements of the ECRIS. Further, delegations were of the opinion that the analysis of the possible as well as identification of gaps between the pilot project and the ECRIS should be carried out jointly by the Commission and also by the Member States. Such analysis would encompass in particular practical experiences of NJR partners.

¹ CY, EL, EE, BE, RO, LV, FI, LU, LT, DK, DE, CZ, UK, NL, IT, SI, PL, SE, FR.

In respect of this remark the Commission admitted that intends to base its work on the pilot project (NJR project) technical specifications.

Taking into account the specificity of the ECRIS project and need for internal coherence of the final outcome it should be understood that the NJR technical specifications be used for ECRIS technical specifications to the largest extent possible, adapted and adjusted to meet the ECRIS decision requirements and improved where needed. Any analysis carried out by the Member States and based, in particular on the practical experiences of NJR partners should be presented to the Commission as soon as available in order to be taken into account in the preparatory work.

2. Contract with the external contractor

Delegations requested that the draft contract to be set up with a contractor (private company) be presented to Member States in order for them to be able to evaluate and to comment it.

Commission was asked to reply to this request. Accordingly, it has informed the Presidency that the contracts concluded by the Commission to execute certain tasks are subject to strict provisions of financial regulation and are subject to the internal financial circuit procedures. No external consultations are foreseen within this process. The Commission already presented the elements that it intends to include in the contract that it deemed most important for Member States. The Commission is open to listen and to discuss and eventually to include the suggestions made by the Member States.

3. Selection of the external contractor and presentation of the project plan

Member States requested information about the basis for selection of external contractor. Further, delegations indicated that, once the contractor is engaged, an estimated project plan is presented, which would indicate the time frame in which the drafting of the specifications and implementation measures should take place, should be prepared and presented.

In respond to this request, Commission indicated that it will provide information on contractor's selection procedure. Furthermore, the project plan shall be to delegations as the first element of contractor's work.

4. Methodology and participation of the Member States in the process of drafting technical specifications.

Delegations underlined the importance of being closely involved in the process at all its stages. They have called for a mechanisms of close consultation which would ensure the influence on the process of the Member States.

Involvement of the Member States is envisaged through all the project. It is understood that COPEN Working Party is a relevant forum for consultation and it could be complemented, if needed by meetings of the Commission's Experts Group on criminal records. More details about the organisation of the work are set out under point 6 below.

In the opinion of delegations the methodology proposed by the Commission shows that it will not be possible to visit all the Member States. Therefore, delegations requested that it would be necessary that the Member States selected to be visited are representative for all types of criminal records in Europe.

Commission confirmed its support for the remarks made above in respect of the methodology and declared its willingness to follow this suggestion.

5. Structure and organisation of the meetings

Delegations were in agreement that the meeting structure should allow for the sufficient flexibility, and expertise when specific issues are discussed. A preference was indicated to a combination of knowledge in a so called business workgroup which could be sought by including both legal and technical experts participation. Some Member States also indicated that they would appreciate having the possibility to ask for meetings, should this be required. Some delegations also valued the possibility of meetings within Commission's Expert Group.

ECRIS Council decision states in Article 6 that the implementing measures shall be examined by the representatives of the relevant departments if the administration of the member States and the Commission meeting within the Council. In respect of this provision, COREPER has decided, in June 2009, that the Working Party on Cooperation in Criminal Matters (COPEN) is the relevant forum to examine the implementing measures referred thereto. This decision has been followed during the first meeting of the ECRIS experts in March this year. However, as indicated by some delegations, other forums, such as Commissions experts group may also be employed in order to give delegations opportunity to discuss specific issues. In its contribution, Commission offered this solution to the Member States.

III. CONCLUSIONS

The Presidency would like to invite delegations to examine the above presented explanations and clarifications in order to be in a position to agree at the next meeting of the Council preparatory bodies to the division of responsibility for preparing the elements of technical implementation as set out in the Commission's offer and further clarified in this note.