



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 16 June 2009**

**10964/09**

**JAI 391  
ENFOPOL 170**

**INITIATIVE**

---

from : Swedish and Spanish delegations

---

Subject: Initiative of the Kingdom of Sweden and the Kingdom of Spain with a view to adopting a COUNCIL FRAMEWORK DECISION on Accreditation of Forensic Laboratory Activities

---

Delegations will find attached an initiative from the Kingdom of Sweden and the Kingdom of Spain with a view to adopting a COUNCIL FRAMEWORK DECISION on Accreditation of Forensic Laboratory Activities.

Draft

COUNCIL FRAMEWORK DECISION

of

on Accreditation of Forensic Laboratory Activities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(c) and Articles 30(a), 31 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Sweden and the Kingdom of Spain,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice; a high level of safety shall be provided by common action among the Member States in the field of police and judicial cooperation in criminal matters.
- (2) That objective is to be achieved by preventing and combating crime through closer cooperation between law enforcement authorities in the Member States, while respecting the principles and rules relating to human rights, fundamental freedoms and the rule of law on which the Union is founded and which are common to the Member States.

---

<sup>1</sup> Opinion of ... (not yet published in the Official Journal).

- (3) Exchange of information and intelligence on crime and criminal activities is crucial for the possibility for law enforcement authorities to successfully prevent, detect and investigate crime or criminal activity. Common action in the field of police cooperation under Article 30(1)(a) of the Treaty on European Union and common action on judicial cooperation in criminal matters under Article 31(1)(a) of the Treaty on European Union entails the necessity of processing relevant information which should be subject to appropriate provisions on the protection of personal data.
- (4) The intensified exchange of information regarding forensic evidence and the increased use of evidence from one Member State in the judicial processes of another, highlights the need to ensure that the quality of the data is sufficiently high.
- (5) Information originating from forensic processes may currently be associated with a level of uncertainty regarding how an item has been handled, what methods have been used and how the results have been interpreted.
- (6) It is particularly important to safeguard the quality of the information exchanged when it relates to such sensitive personal data as DNA profiles and fingerprints.
- (7) Pursuant to Article 7(4) of Council Decision 2008/616/JHA<sup>1</sup>, Member States shall take the necessary measures to guarantee the integrity of DNA profiles made available or sent for comparison to the other Member States and to ensure that these measures comply with international standards, such as EN ISO/IEC 17025, General requirements for the competence of testing and calibration laboratories.
- (8) DNA profiles and fingerprints are not only used in criminal proceedings but are also crucial for identification of victims, inter alia after disasters.

---

<sup>1</sup> Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

- (9) Accreditation of forensic processes is an important step towards a safer and more effective exchange of scientific evidence within the European Union. Accreditation offers the necessary guarantees that laboratory activities are performed in accordance with relevant international standards, such as EN ISO/IEC 17025 General requirements for the competence of testing and calibration laboratories, as well as relevant, applicable guidelines.
- (10) Accreditation is granted by a national accreditation body which has exclusive competence to assess if a laboratory meets the requirements set by harmonised standards. An accreditation body derives its authority from the State. Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 contains detailed provisions on the competence of the national accreditation bodies.
- (11) The absence of an agreement to apply a common accreditation standard for analysis of scientific evidence is a deficiency that will have to be remedied; the Council of the European Union therefore deems it necessary to adopt a legally binding instrument on accreditation of forensic laboratory activities for all forensic providers.

**HAS ADOPTED THIS FRAMEWORK DECISION:**

*Article 1*

*Objective*

1. The purpose of this Framework Decision is to ensure that the results of laboratory activities of one Member State are recognised as being equivalent to the results of laboratory activities of any other Member State.

2. This purpose is achieved by ensuring that laboratory activities are accredited by an accreditation body to comply with International Standard EN ISO/IEC 17025, General requirements for the competence of testing and calibration laboratories.

#### *Article 2*

##### *Scope*

This Framework Decision shall apply to laboratory activities within the fields of

- (a) DNA
- (b) fingerprints

#### *Article 3*

##### *Definitions*

For the purposes of this Framework Decision:

- (a) 'laboratory activity': any measure taken when handling, developing, analysing or interpreting forensic evidence with a view to providing expert opinions or exchanging forensic evidence.
- (b) 'accreditation body': the sole body in a Member State that performs accreditation with authority derived from the State.

#### *Article 4*

##### *Accreditation*

Member States shall ensure that their laboratory activities are accredited by an accreditation body to comply with International Standard EN ISO/IEC 17025, General requirements for the competence of testing and calibration laboratories.

*Article 5*  
*Recognition of results*

Each Member State shall ensure that the results of accredited laboratory activities carried out in other Member States are recognised as being equivalent to the results of domestic accredited laboratory activities.

*Article 6*  
*Costs*

1. Each Member State shall bear any costs resulting from this Framework Decision.
2. The Commission is encouraged to consider financial support for related national and transnational projects, inter alia for the exchange of experience, dissemination of know-how and proficiency testing.

*Article 7*  
*Implementation*

1. Member States shall take the necessary steps to comply with the provisions of this Framework Decision before 1 January 2012.
2. Member States shall, before 1 July 2012, forward to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national laws the obligations imposed on them under this Framework Decision.
3. On the basis of this and other information provided by the Member States on request, the Commission shall, before 1 January 2014, submit a report to the Council on the implementation of this Framework Decision.

4. The Council shall by the end of 2014 assess the extent to which Member States have complied with the provisions of this Framework Decision.

*Article 8*

*Entry into force*

This Framework Decision shall enter into force 20 days following its publication in the Official Journal of the European Union.

---