



**GENERAL SECRETARIAT  
OF THE COUNCIL  
Directorate General H  
(Justice and Home Affairs)**

**Brussels, 18 January 2007**

**WORKING DOCUMENT**

**Meeting of the Article 36 Committee  
(Brussels, 25-26 January 2007)**

**DRAFT**

**COUNCIL DECISION 2007/.../JHA  
of...**

**on improving cooperation on request**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (b),  
Article 32 and Article 34(2)(c) thereof,

Having regard to the initiative of [...list of Prüm states],

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Council of the European Union attaches fundamental importance to the establishment of an area of freedom, security and justice, which is a fundamental concern of the people of the States united in the Union.
- (2) The European Union has set itself the goal of giving the citizens in that area of freedom, security and justice a high degree of security by developing common procedures among the Member States in the field of police and judicial cooperation in criminal matters.
- (3) The conclusions of the European Council meeting in Tampere in October 1999 confirmed the need for improved exchange of information between the competent authorities of the Member States for the purpose of preventing, detecting and investigating offences.
- (4) In the Hague Programme for strengthening freedom, security and justice in the European Union of November 2004, the European Council set forth its conviction that for that purpose an innovative approach to the cross-border exchange of law-enforcement information was needed.
- (5) The European Council accordingly stated that the exchange of such information should comply with the conditions applying to the principle of availability. This means that a law-enforcement officer in one Member State of the Union who needs information in order to carry out his duties can obtain it from another Member State and that the law-enforcement authorities in the other Member State that holds this information will make it available for the declared purpose – taking account of the needs of investigations pending in the latter State. The European Council set 1 January 2008 as the deadline for achieving this objective in the Hague Programme.
- (6) The Framework Decision adopted on Sweden's initiative [2006/.../... JHA of, insert source of SWE initiative here] on simplifying the exchange of information and intelligence between law-enforcement authorities of the Member States of the European Union lays down rules whereby Member States' law enforcement authorities may swiftly and effectively exchange existing information and intelligence for the purpose of carrying out criminal investigations or police intelligence-gathering procedures.

- (7) For effective international cooperation it is of fundamental importance that precise information can be exchanged swiftly and efficiently.
- (8) Article 39 of the Convention implementing the Schengen Agreement regulates Member States' duty to assist one another in police matters. This Decision gives tangible form to the police cooperation provided for in Article 39 of the Schengen Convention.
- (9) As international cooperation, particularly in combating cross-border crime, is to be further improved, this Decision also makes it possible to step up cooperation on request.
- (10) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* which fall within the area referred to in Article 1 of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*. The procedures set out in that Agreement have been followed in respect of this Framework Decision.
- (11) As regards Switzerland, this Framework Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1(H) of Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decision 2004/860/EC of 25 October 2004 on the signing on behalf of the European Community and on the provisional application of certain provisions of that Agreement, and with Article 4(1) of Council Decision 2004/849/EC of 25 October 2004 on the signing on behalf of the European Union, and on the provisional application of certain provisions of that Agreement.
- (12) This Decision constitutes an act within the meaning of Article 3 of the Act of Accession of 16 May 2003 and an act within the meaning of Article 4 of the Admission Protocol to the Treaty of Accession of 25 April 2005.

(13) [Insert position of UK and IE on participation in the Decision ...]

(14) [Insert position of DK on participation in the Decision ...]

(15) As the objectives of the measure being considered, i.e. the improvement of cooperation on request in the European Union, cannot be satisfactorily achieved by the Member States in isolation owing to their cross-border nature, and the Member States are forced to rely on one another in these matters, they can be better achieved at European Union level. The Council may therefore adopt measures under the principle of subsidiarity pursuant to Article 5 of the EC Treaty, to which Article 2 of the EU Treaty refers. In accordance with the principle of proportionality pursuant to Article 5 of the EC Treaty, this Decision does not go beyond what is necessary to achieve these objectives.

(16) This Decision respects the fundamental rights and observes the principles set out in particular in the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DECISION:

*Article 1*

**Cooperation on request**

1. Member States' competent authorities shall provide one another with assistance, upon request, within the scope of their powers and in compliance with their own national law.
2. Member States' competent authorities shall provide one another with assistance, in accordance with the first sentence of Article 39(1) of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, in particular by:
  - 1) identifying owners and operators of vehicles and providing information on drivers, masters and captains of vehicles, vessels and aircraft;
  - 2) supplying information on driving licences, navigation licences and similar permits;
  - 3) ascertaining individuals' whereabouts and place of residence;
  - 4) checking on residence permits;
  - 5) ascertaining the identity of telephone subscribers and subscribers to other telecommunications services, where publicly accessible;
  - 6) establishing the identity of individuals;
  - 7) investigating the origin of items such as arms, motor vehicles and vessels (enquiries via trade channels);
  - 8) supplying data from police databases and police records and supplying information from official records accessible to the public;

- 9) issuing urgent alerts concerning arms and explosives and alerts concerning currency counterfeiting and securities fraud;
  - 10) supplying information on practical implementation of cross-border surveillance, cross-border hot pursuit and controlled deliveries, and
  - 11) ascertaining an individual's willingness to make a statement.
3. If the requested authority does not have the power to deal with the request, it shall forward it to the competent authority. The requested authority shall notify the requesting authority that the request has been passed on and of the authority competent to deal with it. The competent authority shall deal with the request and send the requesting authority the result.

#### *Article 2*

#### **Declarations**

Upon adopting this Decision, each Member State shall designate the authorities responsible for applying this Decision by submitting a declaration to the General Secretariat of the Council.

#### *Article 3*

#### **Entry into force**

This Decision shall enter into force on the day following its publication in the Official Journal of the European Union.

Done at ....

For the Council  
The President

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