



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 25 July 2006**

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**Interinstitutional File:  
2005/0018 (CNS)**

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**11895/06**

**LIMITE**

**COPEN 86**

### **OUTCOME OF PROCEEDINGS**

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of : Working Party on cooperation in criminal matters

dated : 28 June 2006

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No. prev doc. : 8119/06 COPEN 38

No. Cion prop. : COM(2005) 690 final/2 (5463/1/06 REV 1 COPEN 1)

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Subject : Proposal for a Council framework decision on the organisation and content of the exchange of information extracted from criminal records between Member States

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### **I. INTRODUCTION**

On 22 December 2005 the Commission transmitted a proposal for a Framework Decision on the organisation and content of the exchange of information extracted from criminal records between Member States.<sup>1</sup>

The European Parliament has been invited to give its opinion on the draft. The opinion has not yet been delivered.

At its meeting of 28 June 2006 the Working Party on cooperation in criminal matters continued the examination of the draft. General observations made on the draft are set out under II below.

The text of the draft proposal, containing specific points set out in footnotes, is set out in the Annex.

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<sup>1</sup> COM(2005) 690 final/2.5463/1/06 COPEN 1.

## II. GENERAL REMARKS

### a. Opinion of the European Protection Supervisor (EDPS)

The Representative of the EDPS presented the opinion of the EDPS set out in 10557/06 COPEN 65 and in particular the conclusions set out under points 55 to 61 of the opinion. The opinion welcomes in general the policy choices on which the proposal is based but makes suggestions on a number of issues.

Delegations welcomed in general the opinion of the EDPS but objected to some of the suggestions made. In particular:

- There was general agreement that there was a link between the present proposal and the proposal for a Framework Decision on the protection of personal data in the third pillar. However, those delegations that took the floor disagreed with the approach that the present proposal should not enter into force before the entry into force of the draft Framework Decision on the protection of personal data. It was suggested that the proposal went further in terms of data protection than the present situation and would therefore be a step forward which could apply until general more comprehensive measures are put in place.
- There was no support for limiting the application of the instrument to serious offences. This approach would be a step backwards compared with current practice under the 1959 European Convention on mutual assistance in criminal matters. It was also suggested that it was important to have the full picture regarding the criminal record of the person concerned.
- The suggestion that the "owner" of the information should notify changes in information transmitted to other Member States or to third countries was not considered necessary as the information may only be used for the specific purposes for which it has been supplied.

b. Study to review the national criminal records systems

The Commission pointed out that one of the main deficiencies of the system of information exchange under the 1959 European Convention on Mutual Assistance in Criminal Matters which was identified in the White paper adopted by the Commission in January 2005 relates to the comprehension of conviction information exchanged between Member States. Difficulties in comprehension arise as a result of both linguistic barriers between States as well as differences between legal systems. In order to remedy those difficulties, the White Paper proposed the creation of an EU-wide standardised format for the exchange of information.

For that reason and in light of the orientations defined by the Council in April 2005, the Commission has commissioned a study to review the national criminal records systems in the EU, Bulgaria and Romania with a view to developing such a common format. This format will be based on the work already undertaken by FR/DE/BE/ES in order to interconnect their national criminal records. The results of this preliminary study should be available in September 2006.

Proposal for a

**COUNCIL FRAMEWORK DECISION**

**on the organisation and content of the exchange of information extracted from criminal records between Member States**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(b) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Whereas:

- (1) The Union has set itself the objective of offering European citizens a high level of safety in the area of freedom, security and justice. This objective presupposes the exchange between the competent authorities of the Member States of information concerning criminal convictions of persons who reside in the territory of the Member States.
- (2) On 29 November 2000 the Council, in accordance with the conclusions of the Tampere European Council of 15 and 16 October 1999, adopted a programme of measures to implement the principle of mutual recognition in criminal matters<sup>3</sup>. This Framework Decision contributes to achieving the goals provided for by Measure 3 of the programme, which calls for the establishment of a standard form like that drawn up for the Schengen bodies, translated into all the official Union languages, for criminal records requests.
- (3) The final report on the first evaluation exercise on mutual legal assistance in criminal matters<sup>4</sup> called on the Member States to simplify the procedures for transferring documents between States, using, if necessary, standard forms to facilitate mutual legal assistance.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C 12, 15.01.2001, p. 10.

<sup>4</sup> OJ C 216, 01.08.2001, p. 14.

- (4) The need to improve the quality of information exchanged on convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was reiterated in the Hague Programme<sup>1</sup>, adopted by the European Council on 4 and 5 November 2004, which called for greater exchange of information from national conviction and disqualification registers. These objectives are reflected in the action plan jointly adopted by the Commission and the Council on 2 and 3 June 2005 with a view to carrying out the Hague Programme.
- (5) This Framework Decision is a response to the wishes expressed at the Council meeting (Justice and Home Affairs) on 14 April 2005, following the publication of the White Paper on exchanges of information on convictions and the effect of such convictions in the European Union<sup>2</sup> and the subsequent general discussion thereof. Its main aim is to improve the exchange of information on convictions against citizens of the European Union. Access to information on convictions handed down in the European Union against nationals of third countries or persons of unknown nationality raises certain specific issues for which proposals will be made subsequently.
- (6) Information on convictions handed down in other Member States is currently governed by Articles 13 and 22 of the European Convention on Mutual Assistance in Criminal Matters of 1959<sup>3</sup>; these provisions are now, however, too slow for the requirements of judicial cooperation in an area such as the European Union.
- (7) This Framework Decision replaces Article 22 of the Convention. As well as the obligations of the convicting Member State, which this Framework Decision incorporates and further defines, to transmit information to the Member States of the person's nationality on convictions handed down against its nationals, there should also be an obligation for the Member States of the person's nationality to store such information, in order to ensure it is able to respond fully to the information requests made to it by other Member States.

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<sup>1</sup> OJ C 53, 03.03.2005, p.1.

<sup>2</sup> COM(2005) 10.

<sup>3</sup> Council of Europe, European Treaties Series, No 30.

- (8) This Framework Decision on requests for information extracted from criminal records should not prejudice the possibility of judicial authorities' transmitting directly information from criminal records pursuant to Article 6(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, set up by Council Decision of 29 May 2000<sup>1</sup>.
- (9) Improving the circulation of information on convictions is of little use if Member States are not able to take transmitted information into account. On XXX the Council adopted a Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings<sup>2</sup>.
- (10) Personal data handled as part of the implementation of this Framework Decision are protected in accordance with the provisions of Framework Decision XXX on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters<sup>3</sup>. This Framework Decision also incorporates the provisions of the Decision of 21 November 2005 on the exchange of information extracted from the criminal records<sup>4</sup>, which limit the use the requesting Member State can make of information asked for. It supplements them with specific rules applying where the Member State of the person's nationality forward conviction information transmitted to it by the convicting Member State.
- (11) Under Council of Europe Recommendation No R (84) 10 on criminal records and rehabilitation of convicted persons, the main aim of establishment of criminal records is to inform the authorities responsible for the criminal justice system on the background of a person subject to legal proceedings with a view to adapting the decision to be taken to the individual situation. Since all other use of criminal records that might compromise the chances of social rehabilitation of the convicted person must be as limited as possible, the use of information transmitted under this Framework Decision for purposes other than that of criminal proceedings can be limited in accordance with the national legislation of the requested State and the requesting State.

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<sup>1</sup> OJ C 197, 12.7.2000, p. 3.

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

- (12) Improving the circulation of information on convictions is of little use if such information cannot be understood by the Member State receiving it. Mutual understanding may be enhanced by the creation of a "standardised European format" allowing information to be exchanged in a uniform, electronic and easily machine-translatable way. Measures should be taken to set up the information exchange system provided for by this Framework Decision in accordance with the regulatory procedure referred to in Article 13.
- (13) This Framework Decision respects fundamental rights and observes the principles specifically recognised by the Charter of Fundamental Rights of the European Union.
- (14) This Framework Decision respects the principle of subsidiarity referred to in Article 2 of the Treaty on European Union and Article 5 of the Treaty establishing the European Community since the improvement of systems for the transmission of information on convictions between Member States cannot be carried out adequately by the Member States unilaterally and requires coordinated action in the European Union. In accordance with the principle of proportionality, as set out in the latter Article, this Framework Decision does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS FRAMEWORK DECISION:

*Article 1*

*Objective<sup>1</sup>*

The purpose of this Framework Decision is:

- a) to define the ways in which a Member State in which a conviction is handed down against a national of another Member State (the "convicting Member State") may transmit the information on such a conviction to the Member State of the convicted person's nationality (the "Member State of the person's nationality")

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<sup>1</sup> ES thought Article 1 was unnecessary and did not present any particular legal value.

- b) to define storage obligations for the Member State of the person's nationality and to specify the methods to be followed when responding to a request for information taken from criminal records;
- c) to lay down the framework for a computerised conviction-information exchange system between Member States to be built and developed, in accordance with this Framework decision<sup>1</sup>.

*Article 2*  
*Definitions*

For the purposes of this Framework Decision:

- a) "conviction" means any final decision of a criminal court [or of an administrative authority<sup>2</sup> whose decision can be appealed against before a court having jurisdiction in particular in criminal matters], establishing guilt of a criminal offence [or an act punishable in accordance with national law as an offence against the law.]
- b) "criminal record" means the national register or registers recording convictions in accordance with national law.

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<sup>1</sup> Text based on an ES suggestion.

<sup>2</sup> The majority of delegations was of the opinion that a definition of the term "conviction" was necessary in order to ensure that all Member States transmit the same kind of information. However, they opposed the inclusion of decisions of administrative authorities into the scope of the proposal. FR suggested that administrative decisions could be included into the scope of the present instrument to the extent they already are registered in the national criminal records. DE and PT considered that this proposal could be a solution. COM pointed out that the solution to be found in the present proposal had to be consistent with the solution in the draft Framework Decision on earlier convictions. According to the studies carried on by the Commission 4 or 5 Member States included administrative decisions in their criminal records. However, LV, which is one of those Member States, was against the inclusion of decisions for administrative authorities into the scope of the proposal. EL suggested the deletion of the definition.



### *Article 3*

#### *Central authority*

1. For the purposes of this Framework Decision,<sup>1</sup> each Member State shall designate a central authority. However, for the transmission of information under Article 4 and for replies under Article 7 to requests as referred to in Article 6, Member States may designate one or more central authorities.
2. Each Member State shall inform the General Secretariat of the Council and the Commission of the authority or authorities designated in accordance with paragraph 1. The General Secretariat of the Council shall notify the Member States and Eurojust of this information.

### *Article 4*

#### *Obligations of the convicting Member State*

1. Each Member State shall take the necessary measures to ensure that all convictions handed down within its territory are accompanied, when transmitted to the national criminal record, by the nationality or nationalities of the convicted person if they are a national of another Member State.
2. Each central authority shall, as soon as possible, inform the central authorities of the other Member States of any convictions handed down against their nationals within the territory of the former, as entered in the criminal record.

If it is known that the convicted person is a national of several Member States, the relevant information shall be transmitted to each of these Member States, even if the convicted person is a national of the Member State within whose territory he has been convicted.

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<sup>1</sup> UK is of the opinion that this provision should allow Member States to indicate more than one central authority. The Presidency referred to the compromise reached in the Council Decision on the exchange of information from the criminal record.

3. (...) <sup>1</sup>.
4. Information on (...) subsequent (...) alteration or deletion of information contained in criminal records (...) shall be immediately transmitted by the central authority of the convicting Member State to the central authority of the Member State of the person's nationalities<sup>2</sup>.
5. Any Member State having provided information under paragraphs 2 to 4 shall also give a Member State, which makes such a request, copies of any convictions (and any subsequent measures) and any other relevant information, to enable it to assess whether any internal measures are required.

#### *Article 5*

##### *Obligations of the Member State of the person's nationality*

1. The central authority of the Member State of the person's nationality shall store all information transmitted under Article 4 paragraphs 1-4<sup>3</sup>, in order to be able to retransmit it in accordance with Article 7.
2. Any alteration or deletion of information in a convicting Member State shall entail identical alteration or deletions by the Member State of the person's nationality regarding information obtained under Article 4<sup>4</sup>.

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<sup>1</sup> DE/ES/BE/NL/LU/HU/CZ/SK considered the provision of paragraph 3 (transmission of information on the length of time the conviction remains in the criminal record of the convicting State) was unnecessary and pointed out that the date of the deletion of the conviction from the criminal records may change several times and in short intervals. DE, supported by ES/ FI, proposed that only information on actual changes in the criminal record in respect of the registered conviction should be send to the Member State of nationality of the person. On this basis, the Presidency proposes the deletion of paragraph 3 and the revised text of paragraph 4, based on a suggestion by DE. It is noted that FI/COM were of the opinion that paragraph 3 should be kept.

<sup>2</sup> See the footnote to Article 4(3).

<sup>3</sup> Presidency proposal following a suggestion by DK.

<sup>4</sup> Many delegations thought that the State of nationality should not be obliged to delete the information from its criminal record, especially in situations where national rules on deletion of information set different time limits. DE suggested that a deletion could take place in the "storage list". COM had no problems with the ongoing use of such information by the State of nationality on an internal basis only.

3. The Member State of the person's nationality may only use information which has been updated in accordance with paragraph 2. (...) <sup>1</sup>.

#### *Article 6*

##### *Request for information on convictions*

1. When information from the national criminal record of a Member State is requested, the central authority may, in accordance with national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record.
2. When a person asks for information on their own criminal record, the central authority of the Member State in which the request is made may, in accordance with national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record, provided the interested party is or has been a resident or a national of the requesting or requested Member State.
3. All requests for information from the central authority of a Member State shall be submitted using the annexed form.

#### *Article 7*

##### *Reply to a request for conviction information*

1. <sup>2</sup>When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for the purposes of criminal proceedings, this State shall transmit to the central authority of the requesting Member State the following information on:

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<sup>1</sup> The second sentence of paragraph 3 was deleted following a suggestion by ES, supported by DK and NL, who thought that the principle of non less favourable treatment was an acknowledged principle that belonged to the Framework Decision on taking into account of previous convictions and not to the present draft.

<sup>2</sup> DK suggested that a reference to national law should be made in this paragraph (see Art.13 of the 1959 Convention). COM entered reservation on this proposal and, supported by ES, explained that such an addition could limit the general obligation of the Member State of nationality to reply to the request.

- a) national convictions
- b) any convictions handed down in other Member States which were transmitted after the implementation of this Framework Decision, in application of Article 4, and stored in accordance with Article 5(1) and (2)
- c) any convictions handed down in other Member States which were transmitted before the implementation of this Framework Decision and entered in the criminal record
- d) any convictions handed down in third countries and subsequently transmitted to it and entered in the criminal record.

2. <sup>1</sup>When information extracted from criminal records is requested under Article 6 from the central authority of the Member State of the person's nationality for any other purpose than that of criminal proceedings, that State shall respond in accordance with national law for national convictions and convictions handed down in third countries and subsequently transmitted to it.

The central authority of the Member State of the person's nationality shall immediately ascertain from the central authority of the convicting Member State whether and to what extent the information on convictions handed down in the latter and transmitted to the former may be transmitted to the central authority of the requesting Member State.

The central authority of the convicting Member State shall reply to the central authority of the person's nationality early enough to enable the latter to meet the reply deadlines provided for in Article 8.

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<sup>1</sup> In view of the deadlines set out in Article 8 of the proposal, several delegations were concerned about the practicality of consulting the Member State of conviction and emphasized that no such obligation was contained in the 1959 Convention. DE thought that that obligation was unnecessary in view of the provision of Article 5(2). BE suggested that the State of conviction, when transmitting the information, should indicate to what extent can it be forwarded to another Member State.

<sup>1</sup>Information on national convictions, convictions pronounced by third countries and convictions pronounced in another Member State shall be transmitted simultaneously by the central authority of the Member State of the person's nationality to the central authority of the requesting Member State.

3. <sup>2</sup>When a request for information extracted from the criminal record is submitted to the Member State of the person's nationality by a third country under Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 1959, the Member State of the person's nationality shall respond in accordance with national law for national convictions and convictions pronounced by third countries and subsequently transmitted to it.

Before transmitting to a third country under Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 1959 any convictions handed down in other Member States and subsequently transmitted to it, the Member State of the person's nationality shall ascertain from the central authority of the convicting Member State whether and to what extent such information may be transmitted to requesting third country.

The central authority of the convicting Member State shall reply to the central authority of the Member State of the person's nationality within a reasonable period of time.

Information on national convictions, convictions handed down in third countries and convictions handed down in another Member State shall be transmitted simultaneously by the Member State of the person's nationality to the requesting third country.

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<sup>1</sup> Some delegations thought that the obligation to send out all the information simultaneously may in fact cause unnecessary delays in transmitting the requested information. The same applies to the paragraph 4.

<sup>2</sup> Several delegations thought that the possibility of transferring information to third States should be left out of this proposal. They were of the opinion that the obligation to consult the State of conviction violated the obligations towards third States resulting from the 1959 Convention.

4. <sup>1</sup> When information extracted from criminal records is requested from the central authority of a (...) Member State other than the Member State of the person's nationality the requested Member State (...) shall transmit information on (...) convictions contained in its criminal record<sup>2</sup> to the central authority of the requesting Member State. If the request is not related to criminal proceedings, it shall respond in accordance with national law.
5. The reply shall be accompanied by a list of convictions, as provided for by national law.

#### *Article 8*

#### *Deadlines for replies*

1. Replies to the requests referred to in Article 6(1) shall be transmitted by the central authority of the requested Member State to the central authority of the requesting Member State immediately and in any event within a period not exceeding ten working days from the date the request was received, as provided for by national law, rules or practice, using the annexed form.

When the requested Member State requires further information to identify the person involved in the request, it shall immediately consult the requesting Member State with a view to providing a reply within ten working days from the date the additional information is received.

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<sup>1</sup> The changes into the text have been made in order to make the provision clearer.

<sup>2</sup> Presidency proposal following a suggestion by DE who questioned the limitation to information on national convictions.

2. Replies to the request referred to in Article 6(2) shall be transmitted within twenty working days from the date the request was received.

### *Article 9*

#### *Conditions for the use of personal data*

1. Personal data provided under Article 7(1) and (4) for the purposes of criminal proceedings may be used by the requesting Member State solely for the purposes of the particular proceedings they were requested for, in accordance with the annexed form.
2. Personal data provided under Article 7(2) and (4) for any purposes other than that of criminal proceedings may be used by the requesting Member State, in accordance with its national law, solely for the purposes of the particular proceedings they were requested for and within the limits set out by the requested Member State in the relevant form.
3. <sup>1</sup>Notwithstanding paragraphs 1 and 2, personal data provided under Article 7(1), (2) and (4) may be used by the requesting Member State for preventing an immediate and serious threat to public security.
4. <sup>2</sup>Member States shall take the necessary measures to ensure that personal data transmitted to a third country under Article 7(3) are subject to the same usage restrictions as those applicable in Member States under Article 7(1), (2) and (3).
5. This Article does not apply to personal data obtained by a Member State under this Framework Decision and originating from that Member State.

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<sup>1</sup> FR and ES suggested the deletion of this paragraph as they were not sure of its practical applicability.

<sup>2</sup> ES suggested that this paragraph as containing limitations related to the sending the information to third countries should be incorporated into Article 7 (3).

*Article 10*  
*Languages*

For the purposes of transmission by the requesting to the requested Member State of the request referred to in Article 6(1), the annexed form shall be written in the official language, or one of the official languages of the latter.

The requested Member State shall reply either in one of its official languages or in any other language accepted by both Member States.

Any Member State may, at the time of the adoption of this Framework Decision or at a later date, indicate, in a statement to the General Secretariat of the Council, which official languages of the institutions of the European Communities it accepts. The General Secretariat of the Council shall communicate this information to the Member States.

*Article 11<sup>1</sup>*  
*Format and other ways of organising and facilitation exchanges*

1. Until the time limit referred to in paragraph 6 of this Article has elapsed, central authorities of Member States who have not carried out the notification referred to in paragraph 5 of this Article shall transmit all requests, replies and other relevant information by any means capable of producing a written record under conditions allowing the receiving Member State to establish authenticity.
2. Once the time limit referred to in paragraph 6 of this Article has elapsed, central authorities of Member States shall transmit information extracted from criminal records electronically using a standardised format which shall include the following:<sup>2</sup>
  - a) information on the convicted person (surname, first name, previous name<sup>3</sup>, date of birth, place of birth (town and State<sup>4</sup>), pseudonym or alias if applicable, gender, nationality, legal form and registered office for legal persons<sup>1</sup>)

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<sup>1</sup> Article 11 will require further examination once COM presents the results of the study to review the national criminal records systems, including the pilot project of FR/DE/BE/ES.

<sup>2</sup> The list may need further examination. UK thought fingerprints should be included.

<sup>3</sup> Presidency proposal based on the Council Decision on exchange of information extracted from criminal records.

<sup>4</sup> Presidency proposal based on the Council Decision on exchange of information extracted from criminal records.



- b) information on the nature of the conviction (date and place, name and type of convicting authority, reference number, where available<sup>2</sup>)
  - c) information on the facts giving rise to the conviction (date, place, type, legal status, applicable criminal law)
  - d) information on the contents of the conviction (judgment, sentence, accessory penalties, security measures, subsequent decisions affecting enforcement of the sentence, disqualification, etc.).
3. This format and any other ways of organising and facilitating exchanges of information on convictions between national authorities of Member States shall be set up and, if need be, adapted in accordance with the procedure provided for in Article 13.<sup>3</sup>

Other such ways include:

- a) defining all ways in which understanding and automatically translating transmitted information may be made easier;
- b) defining the way in which information may be exchanged electronically, particularly as regards the technical specification to be used and, if need be, any applicable exchange procedures
- c) possible alterations to the form annexed to this Framework Decision.

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<sup>1</sup> DK asked whether legal persons were covered by the proposal. Should that be the case, a definition of the term "person" was considered necessary by the Chair.

<sup>2</sup> Presidency proposal based on the Council Decision on exchange of information extracted from criminal records.

<sup>3</sup> The Legal Service of the Council referred to its opinion in 8699/06 JUR 179 CATS 76 INST 62 which provides that it is up to the Council to assess whether it considers it appropriate to introduce procedures similar to those provided for in the Comitology Decision (OJ L 184, 17.7.1999, p. 23). Subject to a scrutiny reservation by CZ, delegations accepted that it would be legally possible to provide for a procedure along the lines of Articles 12 and 13. However, ES/EL/FR/CZ/SE/FI/NL/DE/AT doubted whether it would be appropriate to do so. It was agreed to discuss this further once the result of ongoing studies has become available

4. If the mode of transmission referred to in paragraphs 2 and 3 is not available, paragraph 1 shall remain applicable for the entire period of such unavailability.
5. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format and electronically transmit it to other Member States. They shall notify the Commission of the date from which they are able to carry out such transmissions. The Commission shall immediately inform the Committee referred to in Article 12.
6. The technical alterations referred to in paragraph 5 shall be carried out within three years from the date the format and the ways in which information on convictions may be exchanged electronically are adopted.
7. The measures necessary for the implementation of paragraphs 2 and 3 shall be adopted in accordance with the regulatory procedure referred to in Article 13.

*Article 12<sup>1</sup>*

*Committee procedure*

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission (the "Committee").
2. The Committee shall adopt its rules of procedure on a proposal made by the Chair on the basis of standard rules of procedure which have been published in the Official Journal of the European Union.
3. It may give recommendations to its members on the collection and storage standards for information contained in national criminal records.

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<sup>1</sup> See footnote to Article 11(3).

*Article 13<sup>1</sup>*

*Procedure*

1. Where reference is made to this Article, 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 Chair may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) 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 Chair shall not vote.
2. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.
3. 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 on the measures to be taken and shall inform the European Parliament thereof.
4. 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.

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<sup>1</sup> See footnote to Article 11(3).

*Article 14<sup>1</sup>*

*Relationship with other legal instruments*

1. In relations between the Member States, this Framework Decision supplements the provisions of Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, its additional Protocols of 17 March 1978<sup>2</sup> and 8 November 2001<sup>3</sup>, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000<sup>4</sup> and its Protocol of 16 October 2001<sup>5</sup>.
2. For the purposes of this Framework Decision, Member States shall waive the right to rely among themselves on their reservations to Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959.
3. Without prejudice to their application in relations between Member States and third countries, this Framework Decision replaces, with effect from XXXXXX, the provisions of Article 22 of the 1959 European Convention on Mutual Assistance in Criminal Matters, as supplemented by Article 4 of said Convention's additional Protocol of 17 March 1978, in relations between Member States.
4. This Framework Decision repeals the Decision of 21 November 2005 on the exchange of information extracted from the criminal record.

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<sup>1</sup> SE/CZ were concerned about the two-path solution which is reflected in this Article, namely that the contacts with the national criminal records may be carried out via the central authority (principle established by the Council Decision of 21 November 2005) or directly by the requesting judicial authorities, as set out in Article 13 of the 1959 Council of Europe Convention).

<sup>2</sup> Council of Europe, European Treaty Series, No 99.

<sup>3</sup> Council of Europe, European Treaty Series, No 182.

<sup>4</sup> OJ C 197, 12.7.2000, p. 1.

<sup>5</sup> OJ C 326, 21.11.2001. p. 1.

5. This Framework Decision has no impact on the application of more favourable provisions included in bilateral or multilateral agreements or arrangements<sup>1</sup> concluded between Member States.

*Article 15*

*Implementation*

1. Member States shall adopt the measures necessary to comply with the provisions of this Framework Decision no later than XXXXXX.
2. Member States shall transmit to the General Secretariat of the Council and the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.
3. On the basis of that information the Commission shall, no later than XXXXXX, present a report to the European Parliament and the Council on the application of this Framework Decision, accompanied if necessary by legislative proposals.

*Article 16*

*Entry into force*

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

Done at Brussels,

*For the Council*

*The President*

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<sup>1</sup> Presidency proposal in view of an observation by ES.

**ANNEX**

**Form referred to in Articles 6, 8, 9 and 10 of the  
Framework Decision on the organisation and content of the exchange of information  
extracted from criminal records between Member**

**Request for information extracted from criminal records**

*Members States should consult the Manual of Procedures for assistance in filling in this form  
correctly*

a) Information on the requesting State:

Member State:

Central authority:

Contact person:

Telephone (with STD code):

Fax (with STD code):

E-mail address:

Correspondence address:

File reference, if known:

b) Information on the identity of the person concerned by the request:

Surname:

First name(s):

Surname at birth, if different:

Alias, if any:

Gender: ...M  ...F

Nationality:

Date of birth (in figures: dd/mm/yyyy):

Place of birth (city and country):

Father's name: \*

Mother's name: \*

Residence or known address (optional):

Fingerprints if available (optional):

Other available identification information (e.g. number in national register, Social Security number)

(optional):

\* *This information should be entered in accordance with the Manual of Procedures when applicable. Otherwise, it should be indicated when known.*

c) Purpose of request:

*Please tick the appropriate box*

- 1)  criminal proceedings
  
- 2)  request from a judicial authority outside the context of criminal proceedings  
  
 request from a competent administrative authority
  
- 3)  request from the interested party

*The purpose of the request should be entered in accordance with the Manual of Procedures when applicable. Otherwise, it should be indicated when known.*

Requesting authority:

The interested party has given his/her consent for this information to be divulged (if the law of the Member State requires such consent).

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Please note that applications are dealt with in accordance with the national law, rules or practice of the requested Member State.

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Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (e.g. urgency of the request):



**Reply to the request**

Information relating to the person concerned

*Please tick the appropriate box*

The undersigned authority confirms:

- that there are no convictions in the criminal record of the person concerned;
- that there are convictions recorded in the criminal record of the person concerned; a list of conviction is attached;
- that, in accordance in accordance with the national law, rules or practice of the requested Member State, requests made for any purposes other than that of criminal proceedings may not be dealt with.

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (e.g. restrictions laid down pursuant to Article 9(2)):

Any data provided may only be used for the purposes of the particular proceedings they were requested for.

Done at

on

Signature and official stamp (if appropriate):

Name and position:

If appropriate, please attach a list of conviction and send the complete package to the requesting Member State. It is not necessary to translate the form or the list into the language of the requesting Member State.