Exchange of information extracted from the criminal record between Member States. Framework Decision

2005/0267(CNS) - 17/06/2008 - Text adopted by Parliament after reconsultation

The European Parliament adopted by 619 to 21 against, with abstentions, a legislative resolution amending the proposal for a Council Framework Decision on the organisation and content of the exchange of information extracted from criminal records between Member States.

The report had been tabled for consideration in plenary by Agustín **DÍAZ DE MERA GARCÍA CONSUEGRA** (EPP-ED, ES), on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

In its resolution accompanying the report, the Parliament called on the Council and the Commission, following the entry into force of the Treaty of Lisbon, to give priority to any future proposal to amend the Framework Decision. In this context, the Parliament requests that it be consulted by urgent procedure, in close cooperation with national parliaments.

The main amendments approved by the Parliament, under **the renewed consultation procedure**, can be summarised as follows:

Avoid a dual system of information on convictions: Parliament considers that any alteration or deletion of information transmitted in accordance with the draft Framework Decision should entail **identical** alteration or deletions by the Member State of the person's nationality regarding information stored, in order to introduce a dual system as regards convictions handed down in a Member State other than the Member State of which the convicted person is a national (one system for domestic use and the other for requesting Member States other than the Member State of nationality).The Commission considers, on the other hand, that the system originally proposed by the Commission should be retained, pursuant to which any change to or deletion of a criminal record in the Member State of conviction would require the same amendment or deletion to be carried out in the Member State of which the person convicted is a national.

Sex offenders: the existence of convictions and the prohibitions arising therefrom, and the place in which these were handed down and recorded, must be known in order to ensure that extracts from criminal records are easy to understand. Hence, the Member States must establish comparable formats for extracts containing convictions, with a special section to be created **for convictions relating to sexual offences**, in order to make them more comprehensible.

Compulsory transmission of information on disqualifications, following a conviction in a Member State: Parliament also requests that it be made compulsory for national authorities to transmit information on disqualifications arising from a criminal conviction, which is only optional in the draft Framework Decision.

Data protection: Parliament also strengthens the entire section on data protection in terms of the exchange of data on criminal records set out in the Framework Decision. It:

- calls for the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters to apply to this provision;
- pending its adoption, recall some of the main principles applicable to the gathering, processing and transmission of personal data. A series of new paragraphs has therefore been included in the

provision in order to strengthen the framework for the protection of data in terms of the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, party or trade union membership and data concerning the health or sex life of the person concerned (exceptions have been established for duly justified cases, for example to prevent an immediate and serious threat to public security).

Rights of the person concerned: along the same lines, MEPs introduce a series of new paragraphs on the right of persons to obtain, without undue delay, the information as to which data are being processed in a language which he or she understands, as well as to rectify and, where appropriate, erase data processed in breach of the principles referred to in the Framework Decision regarding data protection (there are also exceptions here in order to protect security and public order, prevent a crime, not hamper the investigation and prosecution of criminal offences and protect the rights and guarantees of third parties).

Purposes other than criminal proceedings: lastly, where information is requested from the register of criminal records in the Member State of the person's nationality for any purpose outside the framework of criminal proceedings, the Parliament asks that the requesting Member State clearly specify its reasons for requesting it.