Basic information

2001/0821(CNS) CNS - Consultation procedure Decision	Procedure completed
Police cooperation: joint investigation teams. Framework decision. Initiative Belgium, France, Spain and United Kingdom Amended by 2021/0008(COD) Amended by 2021/0395(COD) **Subject** 7.30 Police, judicial and customs cooperation in general 7.30.20 Action to combat terrorism 7.30.30 Action to combat crime	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	KIRKHOPE Timothy (PPE-DE)	16/10/2001
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Justice and Home Affairs (JHA)	2436	2002-06-13

Key events

Date	Event	Reference	Summary
09/10/2001	Legislative proposal published	12442/2001	Summary
22/10/2001	Committee referral announced in Parliament		
22/10/2001	Vote in committee		Summary
22/10/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0369/2001	
12/11/2001	Debate in Parliament		
13/11/2001	Decision by Parliament	T5-0591/2001	Summary
13/06/2002	Act adopted by Council after consultation of Parliament		
13/06/2002	End of procedure in Parliament		
20/06/2002	Final act published in Official Journal		

Technical information

Procedure reference	2001/0821(CNS)

Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Amended by 2021/0008(COD) Amended by 2021/0395(COD)
Legal basis	Treaty on European Union (after Amsterdam) M 034-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/15321

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Justice and Home Affairs act 2002/0465
OJ L 162 20.06.2002, p. 0001 Summary

Police cooperation: joint investigation teams. Framework decision. Initiative Belgium, France, Spain and United Kingdom

2001/0821(CNS) - 13/06/2002 - Final act

PURPOSE : to establish rules on setting up joint investigation teams. COMMUNITY MEASURE : Council Framework Decision 465/2002/JHA on joint investigation teams. CONTENT : This Decision provides that the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Member States setting up the team. The composition of the team is to be set out in the agreement. Such a team may be set up particularly where: -A Member State's enquiry into criminal offenses require difficult and demanding investigations having links with other Member States. -a number of Member States are conducting investigations into criminal offenses in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved. The team will operate under the following general conditions: -the leader will be a representative of the competent authority participating in criminal investigations from the Member State in which the team operates. He will act under the limits of competence under national law. -the team will act in accordance with the law of the Member State in which it operates. -the Member State will make the necessary organisational arrangements to enable the team to operate. There are also provisions that cover the following areas: -seconded members of the team -request for assistance to third States -the purposes for which information lawfully obtained by a member or seconded member may be used. -arrangements for other persons to take part in the teams. -civil and criminal liability regarding officials. The Commission must submit a report on the operation of the Framework Decision by 1 July 2004. The Decision will cease to have effect when the Convention on Mutual assistance in Criminal Matters between Member States of the European Union has entered into force in all Member States. DATE FOR COMPLIANCE : 01/01/03. ENTRY INTO FORCE : 20/06/02.

Police cooperation: joint investigation teams. Framework decision. Initiative Belgium, France, Spain and United Kingdom

2001/0821(CNS) - 13/11/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament approved the establishment of joint investigation teams following the report of Timothy KIRKHOPE (EPP-ED, UK) with some amendments. The key amendment stated that the Council shall inform the European Parliament of the use made by the Member States of joint investigation teams and its evaluation of their effectiveness, in particular in the context of the annual debate held by the European Parliament pursuant to Article 39 of the Treaty on European Union.

Police cooperation: joint investigation teams. Framework decision. Initiative Belgium, France, Spain and United Kingdom

2001/0821(CNS) - 09/10/2001 - Legislative proposal

PURPOSE : Draft Council Framework Decision on the setting up and functioning of joint investigation teams. CONTENT : This is an initiative of Belgium, France, Spain and the United Kingdom following the European Council in Tampere in October 1999. This called for joint investigation teams to be set up. The Council considers it appropriate to ensure that there is a specific legally binding instrument on joint investigation teams applying to terrorism as a matter of priority. The framework decision provides that the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more Member States. The Member States setting up a team should be able to allow persons not representing the competent authorities of Member States take part in the activities of the team. Such persons may include representatives of Europol, OLAF or representatives from non-Member States, and particularly, representatives from the law enforcement authorities of the United States. The legislation sets out general conditions for the operation of the teams, notably: - the team will carry out operations in accordance with the law of the Member State in which it operates. - members of the team from other Member States are "seconded" to the team. - information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the Member State concerned may be used for certain defined purposes. There are also provisions dealing with criminal liability and civil liability regarding officials.

Police cooperation: joint investigation teams. Framework decision. Initiative Belgium, France, Spain and United Kingdom

2001/0821(CNS) - 07/01/2005 - Follow-up document

PURPOSE: Report from the Commission on national measures taken to comply with the Council Framework Decision of 13 June 2002 on Joint Investigation Teams.

CONTENT:

Framework decisions are binding upon the Member States as to the result to be achieved, but leave to national authorities the choice of form and methods. They do not have direct effect.

As the Commission has no authority under the Third Pillar to initiate an infringement procedure against a Member State, this report is limited to a factual evaluation of the implementation measures taken.

In total, 14 Member States forwarded the relevant legislation to the Commission (Denmark, Germany, Spain, France, Latvia, Lithuania, Hungary, Malta, the Netherlands, Austria, Portugal, Finland, Sweden and the UK). No information was received from Estonia, Ireland, Poland, Czech Republic and Slovenia, while Belgium, Italy, Cyprus and Slovakia forwarded the text of a bill and Greece and Luxembourg informed the Commission that a draft was in preparation.

In general terms, the implementation of the Framework Decision has, in most Member States, required the adoption of new legislation or at least the amendment of certain internal provisions. Some transposed the Framework Decision into domestic laws having more or less the same content as the Framework Decision (Spain, Portugal) while others amended existing provisions or adopted legislation providing for new rules (Denmark, France, Latvia, Hungary, Austria, Finland, Sweden).

The UK stated that only certain provisions needed to be enacted and that the others have been transposed by means of a Circular. As the circular is not legally binding, the relevant provisions have been considered as not complying with the Framework Decision.

Three Member States (Germany, Lithuania and Malta) took the view that no specific legislation was needed to implement the Framework Decision.

In the Netherlands, legislation in place allows the setting up of joint investigation teams "insofar as provided for by treaty or convention". As the Framework Decision is neither a treaty nor a convention, the relevant provisions are not compliant with the Framework Decision.

The conclusions that follow assess the implementation of each provision of the Framework Decision.

With regard to Art 1(1), it is sufficient that the general legal context allows the setting up of joint investigation teams as working groups operating in a transnational dimension for limited periods and with specific purposes. Almost every Member State with legislation in place has implemented this provision In several Member States the legislation in force makes reference to an agreement that in some cases is indicated as the Model Agreement adopted by the Council (Austria) whereas in others the term refers to general contact between competent authorities (France, Lithuania).

Regarding the proposal for the composition of the team contained in Art 1(2),it must be noted that legislation in place, whenever it refers to an agreement or a different understanding between competent authorities, even if it does not make reference to the Model Agreement adopted by the Council, implicitly involves the composition of the team.

With regard to Art 1(3), concerning leadership of the team, the applicable law and the organizational arrangements, it is sufficient that each Member State provides for rules to be applied within its borders without specifying what rules are applicable in the other Member States. Nevertheless, it has been fully implemented by only two Member States (Spain and Austria). Four Member States have transposed only certain provisions such as general

rules on the "supervisory powers" accorded to the team leader or on the applicable law (France), or such as provisions concerning the leader of the team and the applicable law without any reference to the organizational arrangements (Latvia, Hungary and Finland). The legislation adopted by Denmark, Germany, Lithuania, Malta, the Netherlands, Portugal, Sweden and the UK does not deal with these issues.

Concerning Art 1(4)(dealing with the definition of "seconded member") it must be noted that, even if no provision expressly provides for a definition of "seconded member", when implementing legislation refers to people seconded to the team, it is clear from the general context, that it refers to members of the joint investigation team from Member States other than the one where the team operates.

One of the most significant aspects of the Framework Decision deals with the powers accorded to seconded members (Arts 1(5) and (6)). The implementing legislation differs considerably from one State to another. While in France, Malta and Finland the activities with which seconded members may be entrusted are listed and specifically indicated, in others the provision is very general (Lithuania) or makes reference to the agreement required to set up the team (Spain), to other types of approval by the competent authority (Germany), or to national law (Austria) and in certain others it is up to the team leader to decide with which powers seconded members may be entrusted (Latvia and Portugal).

Art 1(7)deals with the case in which the team requires investigative measures to be taken in one of the Member States setting up the team. The aim of this provision is to prevent joint investigation teams from needing letters rogatory. Only Spain, Finland, Sweden have complied with this provision. The UK has restricted investigative measures to search warrant and production orders and most of the national enacting legislation does not deal with it (Denmark, Germany, France, Lithuania, Hungary, Malta, the Netherlands, Austria, Portugal). Latvia adopted unclear provisions that seem not to comply.

Art 1(8)concerning assistance needed from a Member State other than those participating in the team, or from a third State, has been fully transposed by Spain and Portugal and Latvia adopted unclear provisions. According to the information received, the other Member States have no relevant legislation in place regarding Art 1 (8).

Provisions on the provision of information (Art 1(9)) have been directly implemented by Latvia, Portugal and Sweden. Nevertheless, in several cases the possibility for seconded members to provide the team with information available in the seconding Member State may be deduced from a general interpretation of the legislation (Spain, Hungary, Austria, Finland). No relevant provision could be found in the other Member States' legislation.

Concerning the use of the information gathered (Art 1(10)) it may be observed that Spain, Portugal,

and Sweden have fully complied with this provision and Austria and Finland have implemented it partially. Latvia adopted provisions that are not in line with the Framework Decision.

With regard to Article 1(11)(stating that the Framework Decision shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams), no Member State forwarded specific legislation. Nevertheless, as far as no conflicting provision arises from the implementing legislations, it must be considered that every Member State is compliant with Art 1(11).

The option of permitting persons other than representatives of the Member States to take part in the team (Art 1(12)) has been provided for only by Spain, Latvia, Hungary, Austria, Portugal and Finland. In Lithuania, legislation in place makes reference to "cases provided for in international treaty". The other Member States have not transposed this provision.