Basic information

2002/0819(CNS) CNS - Consultation procedure Decision	Procedure completed
Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark **Subject** 7.40 Judicial cooperation 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	KIRKHOPE Timothy (PPE-DE)	02/10/2002
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Justice and Home Affairs (JHA)	2455	2002-10-14
	Justice and Home Affairs (JHA)	2504	2003-05-08

Key events

Date	Event	Reference	Summary
03/09/2002	Legislative proposal published	11098/2002	Summary
23/09/2002	Committee referral announced in Parliament		
14/10/2002	Debate in Council		
03/12/2002	Vote in committee		Summary
03/12/2002	Committee report tabled for plenary, 1st reading/single reading	A5-0429/2002	
17/12/2002	Decision by Parliament	T5-0601/2002	Summary
08/05/2003	Act adopted by Council after consultation of Parliament		
08/05/2003	End of procedure in Parliament		
14/05/2003	Final act published in Official Journal		

Technical information

Procedure reference	2002/0819(CNS)
Procedure type	CNS - Consultation procedure

Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on European Union (after Amsterdam) M 039-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/16727

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0429/2002	03/12/2002	
Text adopted by Parliament, 1st reading/single reading		T5-0601/2002 OJ C 031 05.02.2004, p. 0028-0083 E	17/12/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	10204/2002	02/07/2002	Summary
Legislative proposal	11098/2002 OJ C 223 19.09.2002, p. 0019	03/09/2002	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2003/0335
OJ L 118 14.05.2003, p. 0012-0014 Summary

Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark

2002/0819(CNS) - 17/12/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution based on the report by Timothy KIRKHOPE (EPP-ED, United Kingdom) and made some amendments to the Danish initiative. (Please refer to the document dated 03/12/02.) The Council is required to inform the Parliament of the functioning and effectiveness of the Decision in the context of the annual debate held pursuant to Article 39 of the EU Treaty.

Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark

2002/0819(CNS) - 02/07/2002 - Document attached to the procedure

In an explanatory note regarding draft Council Decision on the investigation and prosecution of war crimes, crimes against humanity and, the Danish delegation explains the foundations and the objectives of this text. The purpose of the draft Council decision is to strengthen the ability of the authorities in the Member States to investigate and prosecute individuals who have participated in or furthered the committing of genocide, crimes against humanity, war crimes and other similar grave crimes against the international community. The objective should be promoted by ensuring the necessary co-operation and exchange of information both nationally between the authorities dealing with the immigration and law enforcement and between authorities in different Member States. The initiative is included in the general context of the ratification or the signature by all the Member States of the Rome Statute of the International Criminal Court. This Statute affirms that the most serious crimes of concern to the international community as a whole, in particular genocide, crimes against humanity and war crimes, must not go unpunished and that their effective prosecution must be ensured by taking measures at national level and by enhancing international co-operation. The Rome Statute recalls that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such international crimes. It further emphasises that the International Criminal Court is to be complementary to national criminal jurisdictions. The Member States are regularly being confronted with persons who have been involved in such crimes and who are seeking refuge within the European Union. In general, the investigation and prosecution of as well as exchange of information on genocide, crimes against humanity, and war crimes is to remain the responsibility of national authorities. The successful outcome of the effective investigation and prosecution of such crimes at national level depends to a high degree on close co-operation between the relevant national law enforcement authorities and the judicial and immigration authorities. To promote this end, it should be recalled that the Council on 13 June 2002 decided to establish a network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (2002/494 /JHA) (refer to procedure reference CNS/2001/0826). The present draft Council decision should be seen as a continuation of work along the line set out by the Council Decision of 13 June 2002. The exchanges of information should be between the national authorities dealing with the immigration and law enforcement and between the authorities in different Member States. In addition, it is the aim of the draft Council decision to secure the optimal use of information collected in countries, where such information is generally not easily accessible. The lack of such information will often prove to be the biggest obstacle in bringing offenders to justice in such cases. Due to the complex nature of most cases relating to these types of crime it is considered that it will facilitate considerablythe effectiveness of efforts by Member States both individually and jointly, if relevant knowledge and expertise is accumulated in a few specialised units dealing especially with the investigation and prosecution of such crimes. Lastly, it should be noted that this initiative is not expected to entail financial implications on the budgets of the European Union or the Member States.

Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark

2002/0819(CNS) - 08/05/2003 - Final act

OBJECTIVE: to strengthen cooperation between Member States in order to ensure better investigation and prosecution of persons who have committed war crimes and crimes against humanity in the Union. COMMUNITY MEASURE: Council Decision 2003/335/JAI on the investigation and prosecution of genocide, crimes against humanity and war crimes. CONTENT: The Council adopted a decision, based on a Danish initiative, on the investigation and prosecution of genocide, crimes against humanity and war crimes. This decision aims to strengthen cooperation between national units in order to maximise the ability of law enforcement authorities in different Member States to cooperate effectively in the field of investigation and prosecution of persons who have committed or participated in the commission of genocide, crimes against humanity or war crimes, as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court adopted in Rome on 17 July 1998. The initiative covers both police and judicial cooperation on war crimes and crimes against humanity but also relates to the prosecutions of cases concerning the crimes in question, even though the initiative states clearly that the investigation and prosecution of as well as exchange of information on genocide and crimes against humanity is to remain the responsibility of national authorities. However, based on the principle whereby in accordance with the Rome Statute these crimes must not go unpunished, the Member States are required to ensure that their law enforcement authorities are sufficiently involved in the immigration services procedures to prevent war criminals or persons responsible for committing genocide from gaining asylum in an EU country without their knowing. To this end, the immigration authorities will have to warn the law enforcement authorities of any information that may suggest that a person could be involved in criminal acts of this nature. The initiative also calls on the competent law enforcement and immigration authorities to exchange information on this matter, while fully respecting the requirements of national and international data protection legislation. Furthermore, the decision calls on Member States that suspect an asylum-seeker of being linked in some way to either war crimes or similar serious crimes to ensure that the issue is investigated or the subject of a prosecution and to lend all necessary assistance, in accordance with the relevant national or international legislation. In order to tighten the net around war criminals in EU territory, it is also envisaged that when immigration services are led to believe that an asylum-seeker has been involved in acts of this type and has already approached the immigration services of another Member State, the competent authorities will cooperate and exchange information on the issue. Similarly, if the authorities of a Member State suspect that a war criminal is residing in another Member State or passing through its territory, they must immediately notify the authorities of that state. As regards infrastructure and resources, Member States must make every effort to provide law enforcement and immigration authorities with adequate resources and an effective infrastructure so as to enable them to fulfil the tasks set out in the decision. In this context, the Member States will have to determine whether or not it is possible to set up or appoint specialised units within their law enforcement authorities specifically responsible for these types of cases. Member States will also have to coordinate their efforts by making maximum use of the cooperation mechanism that already exists within the framework of the European Network of Contact Points in respect of persons responsible for genocide, crimes against humanity and war crimes, established by Council Decision 2002/494/JAI of 13 June 2002 (CNS/2001/826). At the initiative of the EU presidency, these contact points would meet at regular intervals in order to exchange information on their experiences. These meetings could take place alongside the meetings of the European Judicial Network and possibly be attended by representatives of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, the International Criminal Court and

other relevant international bodies. ENTRY INTO FORCE: the decision entered into force on 14 May 2003. The Member States had to comply with the decision no later than 8 May 2005. It also applies to Gibraltar.

Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark

2002/0819(CNS) - 03/09/2002 - Legislative proposal

PURPOSE : to present the Danish initiative which aims to adopt a Council Decision on the investigation and prosecution of inter alia war crimes and crimes against humanity. CONTENT : in accordance with the ratification of the Rome Statute of the International Criminal Court of 17 July 1998, this draft decision intends to strengthen cooperation on the collection and exchange of information on the persons responsible for these crimes. This draft decision is based on the Treaty on European Union, and in particular Articles 30, 31 and 34 (2)(c). The Rome Statute which has been signed by all Member States of the European Union affirms that the most serious crimes of concern to the international community as a whole, in particular genocide, crimes against humanity and war crimes, must not go unpunished and that their effective prosecution must be ensured by taking measures at national level and by enhancing international cooperation. In this context, the main aim is to strengthen the possibilities afforded to Member States for investigating and prosecuting persons who have committed or participated in the commission of war crimes or similar serious offences, including terrorism. The purpose of the draft Council Decision is to strengthen the ability of the authorities in the Member States to investigate and prosecute individuals who have participated in or furthered the committing of genocide, crimes against humanity, war crimes and other similar grave crimes against the international community. This objective should be promoted by ensuring the necessary cooperation and exchange of information both nationally between the authorities dealing with immigration and law enforcement and between the authorities in different Member States. Member States shall take the necessary measures to ensure that the relevant national law enforcement and immigration authorities are able to exchange the information which they require in order to carry out their tasks under this provision effectively. The draft decision stipulates that insofar as a person who has applied for a residence permit is suspected of planning, committing or participating in the commission of war crimes or similar serious crimes, the Member States must ensure, in accordance with national law, that the relevant acts are investigated, and, where justified, prosecuted. Member States shall assist one another in investigating and prosecuting such cases in accordance with relevant international agreements and national law. Where, in connection with the processing of an application for a residence permit, the immigration authorities become aware of facts which give rise to a suspicion that the applicant has participated in the acts mentioned above, and where it emerges that the applicant has previously sought permission to reside in another Member State, the law enforcement authorities may apply to the competent law enforcement authorities in the latter Member State with a view to obtaining relevant information, including information from the immigration authorities. The exchange of information pursuant to this provision shall take place in Member States shall take the necessary measures to ensure that the law enforcement and immigration authorities have the appropriate resources and structures to guarantee the proper and effectiveinvestigation and prosecution of the offences. In that connection, Member States shall consider the need to set up or designate specialist units with particular responsibility for investigating and prosecuting the offences in question. Furthermore, Member States shall coordinate ongoing efforts. Member States shall exploit as fully as possible cooperation within the European Judicial Network in accordance with Joint Action 98/428/JHA of 28 June 1998. The Member States shall appoint national coordinators for the investigation of war crimes. At the Presidency's initiative, the national coordinators shall meet at regular intervals in conjunction with meetings within the European Judicial Network with a view to exchanging information about experiences, practices and methods. Depending on the circumstances, representatives from the International Criminal Tribunals for the former Yugoslavia and for Rwanda and the International Criminal Court shall also be invited to take part in such meetings. It should be noted that this present draft Council decision should be seen as a continuation of work along the line set out by Decision 2002/494/JHA on the creation of a European Network of Contact Points in respect of persons responsible for genocide, crimes against humanity and war crimes.