Basic information

2004/0238(CNS) CNS - Consultation procedure Decision	Procedure completed
Criminal judicial cooperation: exchange of information extracted from the criminal record Repealed by 2005/0267(CNS) **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	DI PIETRO Antonio (ALDE)	25/11/2004

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2690	2005-11-21
Justice and Home Affairs (JHA)	2613	2004-10-25
Justice and Home Affairs (JHA)	2626	2004-12-02
Justice and Home Affairs (JHA)	2652	2005-04-14

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
13/10/2004	Legislative proposal published	COM(2004)0664	Summary
25/10/2004	Debate in Council		
16/11/2004	Committee referral announced in Parliament		

02/12/2004	Debate in Council		Summary
01/02/2005	Vote in committee		Summary
03/02/2005	Committee report tabled for plenary, 1st reading/single reading	A6-0020/2005	
21/02/2005	Debate in Parliament		
22/02/2005	Decision by Parliament	T6-0029/2005	Summary
22/02/2005	Results of vote in Parliament		
14/04/2005	Debate in Council		Summary
21/11/2005	Act adopted by Council after consultation of Parliament		
21/11/2005	End of procedure in Parliament		
09/12/2005	Final act published in Official Journal		

Technical information

Procedure reference	2004/0238(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Repealed by 2005/0267(CNS)
Legal basis	Treaty on European Union (after Amsterdam) M 034-p2c Treaty on European Union (after Amsterdam) M 031
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/24416

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A6-0020/2005	03/02/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0029/2005 OJ C 304 01.12.2005, p. 0019-0107 E	22/02/2005	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2004)0664	13/10/2004	Summary
Commission response to text adopted in plenary	SP(2005)1076	31/03/2005	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act
Justice and Home Affairs act 2005/0876 OJ L 322 09.12.2005, p. 0033-0037 Summary

Criminal judicial cooperation: exchange of information extracted from the criminal record

2004/0238(CNS) - 22/02/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Antonio DI PIETRO (ALDE, IT) on the exchange of information extracted from the criminal record. (Please refer to the summary dated 01/02/2005).

Criminal judicial cooperation: exchange of information extracted from the criminal record

2004/0238(CNS) - 14/04/2005

The Council held a policy debate on the exchange of information extracted from criminal records with a view to defining general guidelines for future proceedings and in particular for future Commission proposals on the interconnection of national criminal records.

In addition, information was provided by France and Germany, which - together with Belgium and Spain - have engaged in a pilot operation involving the interconnection of criminal records which should be operational by the end of 2005.

On the basis of the discussions, the Presidency noted that broad agreement had been reached within the Council concerning the following questions:

- § the need to base exchanges of information on bilateral communications between criminal records;
- § in the case of Community nationals, access to information concerning convictions should be through the Member State of the nationality of the convicted person. The Member State of nationality would also have to concentrate information concerning the criminal records of Community nationals and would be obliged actually to record in full all convictions handed down against its nationals in other Member States of the European Union. The practical arrangements for such an obligation (scope, filtering, period of storage, deletion, etc.) will be considered in detail at a later stage on the basis of a proposal to be submitted by the Commission (refer to CNS/2005/0267);
- § in the case of nationals of non-member countries, or where the nationality of the convicted person is not known to the Member State of conviction, a European index would be created identifying the Member State of conviction.

It should be recalled that when it adopted the Hague Programme the European Council meeting on 4 and 5 November 2004 made the exchange between Member States of information concerning criminal convictions a priority matter and asked the Commission to prepare new proposals.

On 25 January 2005 the Commission submitted the "White paper on exchanges of information on convictions and the effect of such convictions in the European Union".

It also organised two meetings of experts on the white paper and the related feasibility study.

Criminal judicial cooperation: exchange of information extracted from the criminal record

2004/0238(CNS) - 02/12/2004

The Council agreed on a general approach on the text of Articles 1 to 8 of a proposal for a Decision on exchange of information extracted from criminal records. The preamble, the forms to be annexed to the draft Decision and the question of access for natural persons will be discussed at a later stage by the Council.

The proposal aims to ensure that the criminal record in the Member State of the person's nationality is as complete as possible at the earliest opportunity. Therefore, each central authority of a Member State must without delay inform the central authorities of the other Member States of criminal convictions and subsequent measures in respect of nationals of those Member States entered in the criminal record. Furthermore, a central authority may request information from the criminal records of another Member State. The reply must be sent immediately and in any event within a period not exceeding ten working days from the receipt of the request, under certain conditions. Requests, replies and other relevant information may be transmitted by any means capable of producing a written record under conditions allowing the receiving Member State to establish authenticity.

In all Member States criminal convictions are recorded by a variety of procedures in specific registers. There are exchange mechanisms to facilitate the transmission of this information between Member States, in particular under the European Convention on Mutual Assistance in Criminal Matters of 1959. However, an analysis of their operation reveals that they contain gaps and function randomly and slowly, no longer meeting the needs for judicial cooperation in a frontier-free area such as the European Union. Recent tragic paedophilia cases have also highlighted the serious malfunctioning of systems for the exchange of information on convictions between Member States. Likewise, the demands of the fight against terrorism are such that the quality of these exchanges must be improved quickly.

Criminal judicial cooperation: exchange of information extracted from the criminal record

2004/0238(CNS) - 13/10/2004 - Legislative proposal

PURPOSE: The exchange of information extracted from the criminal record.

PROPOSED ACT: Council Decision.

CONTENT: The European Commission is in the process of preparing a computerized system of information exchanges on criminal convictions between the Member States. Currently, Member States record conviction according to a variety of procedures in specific registers. The 1959 European Convention on Mutual Assistance in Criminal Matters helps facilitate the transmission of important information. However, recent studies of the Convention indicate that there are gaps in the current system of exchange. In addition the Convention is accused of operating randomly and slowly. In short it no longer meets the needs for judicial co-operation in a frontier-free area. Yet, the need to improve information exchange on criminal records is becoming all the more urgent in the wake of paedophile scandals and acts of terrorism.

The Commission acknowledges that a fully functioning computerised exchange system requires major technical and legal work and thus its operational phase is some years away. Accordingly, this proposal does not seek to amend the nature of the obligations imposed on the Member states but to make practical improvement to the current system, without prejudging the results of future work. The proposed Decision provides for each Member State to designate a central authority to deal specifically with this issue and contains two major elements.

Firstly, it seeks to ensure that the criminal record in the Member State of the person's nationality is as complete as possible, so that exhaustive information is quickly available on a Community national's criminal conviction in the territory of the European Union. Under current provisions Member States are only obliged to submit information once a year. The proposal requires information to be passed on without delay.

Secondly, the proposal makes provisions for requests for information extracted from the judicial record. Given that there are no existing deadlines, this proposal suggests that a request for information extracted from the criminal record must be satisfied within a maximum of five days. For ease and speed of use, forms translated in all of the EU's official languages accompany the proposal. Such a measure should ease the current burden of translation costs as well as preventing added delays in the exchange of information.

Criminal judicial cooperation: exchange of information extracted from the criminal record

2004/0238(CNS) - 21/11/2005 - Final act

PURPOSE : to improve the mechanisms for the transmission of information on convictions between Member States.

LEGISLATIVE ACT : Council Decision 2005/876/JHA on the exchange of information extracted from the criminal record.

CONTENT : this decision supplements and facilitates existing mechanisms for the transmission of information on convictions based in particular on the 1959 European convention on mutual assistance in criminal matters and the 2000 convention on mutual assistance in criminal matters between the Member States.

This Decision obliges Member States to designate a central authority. Each central authority shall, without delay, inform the central authorities of the other Member States of criminal convictions and subsequent measures in respect of nationals of those Member States entered in the criminal record.

Moreover, each member state may obtain information which it needs from criminal records from other member states within a specific time-frame (from 10 to 20 working days from the receipt of the request) by means of standardised request and answer forms available in all official languages of the EU.

The personal data processed under this Decision will be protected in accordance with the principles enacted in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.

IMPLEMENTATION : no later than 21/05/2006.

ENTRY INTO FORCE : 09/12/2005.