

# Cross-border cooperation to combat terrorism and cross-border crime, implementation of the Prüm Treaty. Initiative Germany

2007/0821(CNS) - 27/03/2008

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drafted by Bárbara **DÜHRKOP DÜHRKOP** (PES, ES) on the initiative of the Federal Republic of Germany with a view to the adoption of a Council Decision on the implementation of Decision 2008/.../JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. It made some amendments to the text, in the framework of the consultation procedure. The amendments emphasised the need for a uniform set of procedural guarantees at EU level, and data protection concerns.

The main amendments were as follows:

-a new recital states that the data protection rules laid down in the Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (see [CNS/2007/0804](#)), are to be created in the absence of an adequate third pillar legal instrument on data protection. When approved, that general legal instrument should be applied to the entire area of police and judicial cooperation in criminal matters, provided that its level of data protection is adequate and, in any event, no lower than the protection laid down in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and the Additional Protocol thereto regarding supervisory authorities and trans-border data flows of 8 November 2001;

-special categories of data concerning racial or ethnic origin, political opinion, religious or philosophical belief, party or trade union membership, sexual orientation or health should be processed only if absolutely necessary and in proportion to the purpose of the specific case and in compliance with specific safeguards;

-the measures provided for in the Decision are in accordance with the opinion of the European Data Protection Supervisor of 19 December 2007;

-the Committee inserted the definition of "personal data" given in Article 2(a) of Directive 95/46/EC since the Council decision on Prüm does not contain any clear definition of personal data and this lack persists in the implementing decision;

-it amended the definition of "non-coding part of DNA", which now means chromosome zones containing no genetic expression, i.e. not known to provide information about specific hereditary characteristics; notwithstanding any scientific progress, no more information shall be revealed from the non-coding part of DNA;

-a new clause states that, in accordance with Chapters 3 and 4 of the Decision, reports that match the DNA profile or dactyloscopic data of persons who have been acquitted or discharged shall be exchanged only if the database is precisely circumscribed and the category of data subject to the inquiry is clearly defined by the national law;

-any modification to the Annex shall follow the current procedure provided by the Treaty on European Union which requires the consultation of the European Parliament by the Council;

-the evaluation of the administrative, technical and financial application of the data exchange will be carried out on an annual basis. Such evaluation shall include an assessment of the consequences of differences in techniques and criteria for collecting and storing DNA data in the Members States. The evaluation shall also include an assessment of the results related to the proportionality and the effectiveness of the cross-border exchange of the various types of DNA data. The General Secretariat of the Council shall transmit to the European Parliament and the Commission on a regular basis the results of the evaluation of data exchange in the form of a report.

-lastly, the DNA-profiles must contain at least 6 loci and must (rather than "may") contain additional loci or blanks depending on their availability. In order to raise the accuracy of matches, all available alleles must (rather than "may") be stored in the indexed DNA profile database and be used for searching and comparison. Each Member State must implement, as soon as practicable, any new ESS of loci adopted by the EU.