

Terrorism: exchange of information on terrorist offences while respecting the Charter of Fundamental Rights

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At the meeting of the Council on 2 December 2004, the delegations reached a general approach on a modified text of the proposal for a decision on the exchange of information and cooperation concerning terrorist offences. The amendments aim essentially to clarify the text of the initial proposal and to emphasise the principle of subsidiarity. The principal amendments may be summarised as follows:

- a new recital states that, in the execution of the exchange of information, the Decision is without prejudice to essential national security interests, the jeopardizing of the success of a current investigation or the safety of individuals, or specific intelligence activities in the field of State security;
- the text clarifies the nature of the information to be sent to each recipient; Accordingly, the following information must be sent to Europol:
 - data which identify the person, group or entity;
 - acts under investigation and their specific circumstances;
 - the offence concerned;
 - links with other relevant cases;
 - the use of communication technologies;
 - the threat posed by the possession of weapons of mass destruction.

Information to be transmitted to Eurojust will comprise the following:

- data which identify the person, group or entity that is the object of a criminal investigation or prosecution ;
- the offence concerned and its specific circumstances;
- information about final convictions for terrorist offences and the specific circumstances surrounding these offences;
- links with other relevant cases;
- requests for judicial assistance, including letters rogatory, addressed to or by another Member State and the response.

In addition, Member States have specified that, if their legal systems so provide, they may designate more than one authority as Eurojust national correspondent for terrorism matters, which, in accordance with national law, shall have access to and can collect all relevant information concerning prosecutions and convictions for terrorist offences. In respect of Europol, the competent authority will be a specialised service within the police services of each Member State, or other law enforcement authorities, which, in accordance with national law, will have access to and collect all relevant information concerning criminal investigations conducted by its law enforcement authorities with respect to terrorist offences.

Each Member State must take measures to ensure that any relevant information seized in the course of criminal investigations or proceedings in connection with terrorist offences can be made accessible as soon as possible (and not 'immediately' as foreseen in the Commission's proposal), taking account not to jeopardize current investigations, to the authorities of other interested Member States.

Measures to comply with the Decision must be taken within 9 months of its entry into force.

It should be noted that the French, Irish, Dutch and British delegations still have parliamentary scrutiny reservations.