



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 9 July 2009
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL FRAMEWORK DECISION on accreditation of forensic
laboratory activities

COUNCIL FRAMEWORK DECISION 2009/.../JHA

of

on Accreditation of Forensic Laboratory Activities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (c), Article 31 and Article 34(2)(b) thereof,

Having regard to the initiative of the Kingdom of Sweden and the Kingdom of Spain,

Having regard to the Opinion of the European Parliament¹,

¹ Opinion of ... (not yet published in the Official Journal).

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice; a high level of safety is to be provided by common action among the Member States in the field of police and judicial cooperation in criminal matters.
- (2) That objective is to be achieved by preventing and combating crime through closer cooperation between law enforcement authorities in the Member States, while respecting the principles and rules relating to human rights, fundamental freedoms and the rule of law on which the Union is founded and which are common to the Member States.
- (3) The exchange of information and intelligence on crime and criminal activities is crucial for the possibility for law enforcement authorities to successfully prevent, detect and investigate crime and criminal activities. Common action in the field of police cooperation under Article 30(1)(a) of the Treaty and common action on judicial cooperation in criminal matters under Article 31(1)(a) of the Treaty entails the need to process relevant information which should be subject to appropriate provisions on the protection of personal data.
- (4) The intensified exchange of information regarding forensic evidence and the increased use of evidence from one Member State in the judicial processes of another highlights the need to ensure that the quality of the data is sufficiently high.

- (5) Information originating from forensic processes in one Member State may currently be associated with a level of uncertainty in another Member State regarding how an item has been handled, what methods have been used and how the results have been interpreted.
- (6) It is particularly important to safeguard the quality of the information exchanged when it relates to such sensitive personal data as DNA profiles and fingerprints.
- (7) Pursuant to Article 7(4) of Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime¹, Member States shall take the necessary measures to guarantee the integrity of DNA profiles made available or sent for comparison to other Member States and to ensure that these measures comply with international standards, such as EN ISO/IEC 17025 - General requirements for the competence of testing and calibration laboratories.
- (8) DNA profiles and fingerprints are not only used in criminal proceedings but are also crucial for the identification of victims, inter alia, after disasters.
- (9) The accreditation of forensic processes is an important step towards a safer and more effective exchange of scientific evidence within the Union. Accreditation offers the necessary guarantees that laboratory activities are performed in accordance with relevant international standards, such as EN ISO/IEC 17025 - General requirements for the competence of testing and calibration laboratories, as well as relevant applicable guidelines.

¹ OJ L 210, 6.8.2008, p. 12.

- (10) Accreditation is granted by a national accreditation body which has exclusive competence to assess if a laboratory meets the requirements set by harmonised standards. An accreditation body derives its authority from the State. Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products¹ contains detailed provisions on the competence of the national accreditation bodies.
- (11) The absence of an agreement to apply a common accreditation standard for analysis of scientific evidence is a deficiency that should be remedied; the Council therefore deems it necessary to adopt a legally binding instrument on the accreditation of forensic laboratory activities for all forensic providers,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objective

1. The purpose of this Framework Decision is to ensure that the results of laboratory activities of one Member State are recognised as being equivalent to the results of laboratory activities of any other Member State.
2. This purpose is achieved by ensuring that laboratory activities are accredited by an accreditation body to comply with International Standard EN ISO/IEC 17025 - General requirements for the competence of testing and calibration laboratories.

¹ OJ L 218, 13.8.2008, p. 30.

Article 2

Scope

This Framework Decision shall apply to laboratory activities relating to:

- (a) DNA; and
- (b) fingerprints.

Article 3

Definitions

For the purposes of this Framework Decision:

- (a) "laboratory activity" means any measure taken when handling, developing, analysing or interpreting forensic evidence with a view to providing expert opinions or exchanging forensic evidence;
- (b) "accreditation body" means the sole body in a Member State that performs accreditation with authority derived from the State.

Article 4
Accreditation

Member States shall ensure that their laboratory activities are accredited by an accreditation body to comply with International Standard EN ISO/IEC 17025 - General requirements for the competence of testing and calibration laboratories.

Article 5
Mutual recognition of results

Each Member State shall ensure that the results of accredited laboratory activities carried out in other Member States are recognised as being equivalent to the results of domestic accredited laboratory activities.

Article 6
Costs

1. Each Member State shall bear any costs resulting from this Framework Decision.
2. The Commission is encouraged to consider financial support for related national and transnational projects, *inter alia*, for the exchange of experience, dissemination of know-how and proficiency testing.

Article 7
Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision before 1 January 2012.
2. Member States shall, before 1 July 2012, transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national laws the obligations imposed on them under this Framework Decision.
3. On the basis of that and other information provided by the Member States on request, the Commission shall, before 1 January 2014, submit a report to the Council on the implementation of this Framework Decision.
4. The Council shall, by the end of 2014, assess the extent to which Member States have complied with this Framework Decision.

Article 8
Entry into force

This Framework Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Done at

For the Council
The President
