Developing an EU criminal records database and disqualification register

Legal, politico-institutional & practical feasibility

2001/GRP/024

The Hague, Europol - May 17th, 2002
Structure

› comprehensive approach
› methodology
› contents
› organisation
› access
› use
› required EU legal instruments
Comprehensive approach

- addressing two goals ‘Mutual Recognition Plan’
  - (individualisation of) sanctions
  - disqualifications related to criminal acts
  - not: pending prosecutions
    - IRCP project 2001/GRP/025
      - ‘Finding the best place for prosecution’
- not limited to specific type of offence
  - not only: sex offenders, money laundering, public procurement, ...
  - general scope
Methodology

› research team
› literature
  › previous CoE work
  › existing (scientific) EU reports and documents
› national experts
  › reflection paper + questionnaire
  › round-table
› replies and comments national experts
› bilateral working meetings
  › European Commission, Europol, Eurojust, Interpol, Olaf
› round-table
› final report (available in book-form to all partners)
Contents

› final judicial decisions
  › exceptions
    › judgements in absentia
    › ordonnances pénales
  › ordnungswidrigkeiten
› related to criminal acts
› ruled by national and foreign authorities
  › Article 22 1959 CoE MLA Convention
    › decisions of CoE countries on EU nationals
    › decisions of EU MS on third country nationals
› regarding offences
› committed by natural or legal persons
Organisation

- approach
- search methods
- data protection
- translation
Approach

- 3 options in ‘Mutual Recognition Plan’
  - bilateral exchange of information
  - network of national registers
  - centralized criminal records database
- preferred option (combined approach)
  - improving bilateral exchange by EU initiative
    - structural
      - frequency higher than annually (monthly?)
    - case-based
      - EU model form?
  - decentralized detailed information
  - central index system: labelling-technique
  - use of existing IT facilities (Europol, SIS, EJN, Eurojust)
Search methods

› names
› categories
  › labelling-technique
› additional fields?
  › court type
  › date of decision
  › gender
  › age offender
  › ...

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Data protection

› Joint Supervisory Data Protection Body
  › as for SIS, Europol, CIS
  › Council decision 16 October 2000
    › integration secretariat into existing common secretariat SIS-Europol-CIS JSDPB’s
› notification of possible disclosure
  › use for LE purposes
    › no notification
    › only right to correction, deletion, ...
  › use for employment purposes
    › notification a priori: in vacancy announcement
› rehabilitation - erasure of entries
  › EU standards to be agreed
Translation

› automatic translation of
  › names
  › categories/labels
  › additionals fields

› Interpol
  › English-French-Spanish-Arabic
  › no translation software
  › English processing language

› Europol software (2002)
  › to be supplemented with more categories of crimes
Access (1)

> authorities concerned with criminal investigations
  > MS
  > EU-bodies (Europol, Eurojust, Olaf)
  > third bodies (Interpol)
  > third states
    > no access
    > providing of contacts
    > providing of information
      > through MS
      > direct request to ECR
  > privileged partners
    > Article 28-36 TEU convention as criterion?
Access (2)

- employers in vulnerable professions
  - who?
    - vulnerable professions
      - public professions (police, judiciary, government, ...)
      - educational professions
      - medical professions
      - financial professions
      - transportation offences
      - trustworthy telecommunication professions
  - how?
    - EU-certificate of good conduct
  - what?
    - disclosure related to profession
Use

› individualisation of the penalty
› facilitation work EU LE bodies
› active alert
  › possible add-on (patch) to the ECR
  › value of request to take action in terms of
    › execution sentence
    › supervision conditionally convicted/released
› system comparable to
  › SIS Article 95 notice
  › Interpol red notice
Required EU legal instruments

› improvement bilateral information exchange
  › more frequent structural exchange
  › EU model form to be used on case-by-case basis
  › instruments: Council decision
› establishment European Criminal Records Database
  › instrument: convention (trend to decision)
› introduction principle of international recidivism
  › framework decision
› introduction EU certificate of good behaviour
  › framework decision