

Judicial cooperation: financial penalties, mutual recognition. Framework Decision. Initiative France, Sweden and United Kingdom

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Framework Decision 2005/214/JHA applies the principle of mutual recognition to financial penalties imposed by judicial or administrative authorities for the purpose of facilitating enforcement of such penalties in a Member State other than the one in which the penalties were imposed. The Council of the European Union agreed on 29 November 2000, in accordance with the Tampere conclusions, that adopting such an instrument should be given priority within the programme of measures to implement the principle of mutual recognition to decisions in criminal matters.

The Framework Decision applies to all offences in relation to which financial penalties can be imposed. Dual criminality checks were abolished in relation to 39 offences listed in the Framework Decision.

The degree of implementation in the national legislation of the Member States of the EU of Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties cannot be fully assessed at this stage. The transposition is not satisfactory as only eleven notifications have been provided by Member States (AT, CZ, DK, EE, FI, FR, HU, LT, LV, NL and SI).

The national implementing provisions generally are in line with the Framework Decision, especially regarding the most important issues such as abolishing dual criminality checks and the recognition of decisions without further formality. Unfortunately the analysis of grounds for refusal of recognition or execution proved once again that, whereas almost all Member States transposed them, they were implemented mostly as obligatory grounds. Furthermore, some additional grounds were added. This practice is clearly not in line with the Framework Decision.

The Commission invites all Member States to consider this Report and to take the opportunity to provide all further relevant information to the Commission and to the Council Secretariat, in order to fulfil their obligations under Article 20 of the Framework Decision. In addition, the Commission encourages those Member States that have signalled that they are preparing relevant legislation to enact and notify these national measures as soon as possible.