Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 20/01/2009 - Supplementary legislative basic document

PURPOSE : proposal on the prevention and settlement of conflicts of jurisdiction in criminal proceedings.

PROPOSED ACT: Council Framework Decision (Initiative of the Czech Republic, Poland, Slovenia, the Slovak Republic and Sweden)

BACKGROUND: the Hague Programme for strengthening freedom, security and justice in the EU adopted by the European Council in November 2004 notes that, in cross-border multilateral cases, particular attention should be given to possibilities of concentrating the prosecution in one Member State. Further attention should be given to proposals on conflicts of jurisdiction so as to complete the comprehensive programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters.

CONTENT: this Framework Decision establishes:

a) the procedural framework under which national authorities must exchange information about ongoing criminal proceedings for specific facts in order to find out whether there are parallel ongoing proceedings for the same facts in other Member State(s) and under which their national authorities will enter into direct consultations in order to reach an agreement on the best placed jurisdiction for conducting criminal proceedings for specific facts which fall within the jurisdiction of two or more Member States;

b) rules and common criteria which must be taken into account by the national authorities of two or more Member States whenever they seek agreement on the best placed jurisdiction for conducting criminal proceedings for specific facts.

The Framework Decision will apply to the following situations:

- where the competent authorities of one Member State conduct criminal proceedings and discover that facts which are the subject of these proceedings demonstrate **a significant link** to one or more other Member States, and it is possible that the competent authorities of such other Member State(s) are conducting criminal proceedings for the same facts, or

- where the competent authorities of one Member State conduct criminal proceedings and by whatever means become aware that the competent authorities of one or more other Member States conduct criminal proceedings for the same facts.

The Framework Decision will not apply to situations where no Member State has established its jurisdiction over the committed criminal offence. It will not apply to any proceedings brought against undertakings if such proceedings have as their object the application of European Community competition law. The Framework Decision does not confer any rights on a person to be invoked before the national authorities.

The proposal provides, inter alia, that in the event that the competent authorities of a Member State discover that facts which are the subject of ongoing proceedings demonstrate a significant link to one or more Member States, the notifying authority of the first Member State shall notify the existence of these proceedings to the responding authority(ies) of the Member State(s) significantly linked to them in order to find out whether the responding Member State(s) is/are conducting criminal proceedings for the same facts. This obligation to notify applies only to criminal offences punishable in the notifying State by a custodial sentence or a detention order for a **maximum period of at least one year**.