# Freedom, security and justice: standing of victims in criminal procedures. Framework Decision. Initiative Portugal

2000/0813(CNS) - 20/04/2009 - Follow-up document

This report from the Commission is pursuant to Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA).

According to Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings, the Commission is required to draw up a report on the implementation measures taken by Member States. The Commission published a first report in February 2004 which examined transposition as of 25 March 2003 when only Austria, Belgium, Finland, Germany, Italy, Ireland, Luxembourg, Portugal, Spain and Sweden had sent relatively complete contributions on transposition into their national legislation.

This final report takes into account implementation of all Articles of the Framework Decision as at 15 February 2008 in all 27 Member States.

**State of transposition**: despite Article 18 laying down an obligation for Member States to submit implementing legislation to the Commission by 22 March 2006, in November 2007 only 13 Member States (Austria, Denmark, Germany, Spain, Luxembourg, the Netherlands, Portugal, Sweden, the UK, the Czech Republic, Hungary, Lithuania and Poland) had sent relatively complete contributions. The Commission sent reminders to Member States and the final deadline was set at 15 February 2008. This report is based on the transposition situation on 15 February 2008, almost two years after the 22 March 2006 deadline.

Two Member States (Malta and Greece) did not submit legislation and, therefore, the Commission cannot assess whether they have implemented the Framework Decision.

Latvia sent a set of national provisions in Latvian on 12 December 2007 and further provisions on 6 March 2008 (after the deadline), without a description of the national implementing measures or explanatory notes. Therefore, the Commission cannot assess whether Latvia has fulfilled the obligation as set out in Article 18. Other Member States submitted national provisions that purport to implement the Framework Decision, in full or in part. Luxembourg informed the Commission that the Bill referred to in the first report has still not become law. It will not be taken into account in the assessment of the implementation by Luxembourg. The UK states that it covers England, Wales, Scotland and Northern Ireland, but the UK sent an additional contribution regarding transposition in Scotland (the Scottish system is mentioned specifically where it differs from the general provisions for the rest of the UK).

No Member State transposed the Framework Decision in a single piece of national legislation. Member States all relied on existing provisions and many referred to their Code of Criminal Procedure for transposition. A few adopted new legislation covering one or more Articles. Many Member States submitted non-binding codes, Instructions and charters in lieu of legislation. Moreover, several Member States have covered the provisions piecemeal by virtue of overlap with a variety of existing national provisions or newly adopted national provisions.

**Main conclusions of the report**: the Commission report concludes that the implementation of this Framework Decision is **not satisfactory**. The national legislation sent to the Commission contains

numerous omissions. Moreover, it largely reflects existing practice prior to adoption of the Framework Decision. The aim of harmonising legislation in this field has not been achieved owing to the wide disparity in national laws. Many provisions have been implemented by way of non-binding guidelines, charters and recommendations. The Commission cannot assess whether these are adhered to in practice.

Therefore, the Commission invites 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 18 of the Framework Decision. In addition, the Commission encourages those Member State that have indicated that they are preparing relevant legislation, to enact and submit these national measures as soon as possible.