

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) - 06/04/2009 - Document attached to the procedure

The Council reached a **general approach** on the proposal for a Council Framework Decision on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

France, Ireland, the Netherlands and the United Kingdom maintain a Parliamentary scrutiny reservation.

This proposal is an initiative presented jointly, in January 2009, by the Czech Republic, Poland, Slovenia, Slovakia and Sweden.

The agreement on the general approach followed a debate focusing on outstanding issues such as:

- the role of Eurojust in dealing with cases where the competent authorities could not reach a consensus;
- the interaction with rules of European Community competition law, and the implementation period for the new legislation.

In line with the ministerial discussions on 27 February 2009, the **scope of the instrument has been restricted** to situations where the same person(s) is (are) subject to parallel criminal proceedings in different member states in respect of the same facts, which might lead to an infringement of the "*ne bis in idem*" principle.

The framework decision contains the following measures:

- a procedure for establishing contact between the competent authorities of Member States, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person(s);
- rules on the exchange of information, through direct consultations, between the competent authorities of two or more Member States conducting such parallel criminal proceedings(s), with a view to reaching a consensus on any effective solution aimed at avoiding the adverse consequences arising therefrom.

This Framework Decision does not affect any right of individuals to argue that they should be prosecuted in their own or in another jurisdiction, if such right exists under national law.

Council statement: the following statement will be inserted in the minutes of the Council meeting at which the Framework Decision will be finally adopted: the Council considers that the knowledge among practitioners of the "Guidelines for deciding which jurisdiction should prosecute?", published in the Annex to the Eurojust Annual Report 2003, should be enhanced.

The Council therefore calls on Eurojust and on the Member States to take appropriate measures with a view to achieving this aim, e.g. by disseminating the Guidelines among practitioners. It invites Eurojust, in cooperation with the Member States, to revise the Guidelines if and when appropriate, ensuring that practitioners are informed of any revised text.