Judicial cooperation: investigation and prosecution for war crimes or crimes against humanity. Initiative Denmark

2002/0819(CNS) - 02/07/2002 - Document attached to the procedure

In an explanatory note regarding draft Council Decision on the investigation and prosecution of war crimes, crimes against humanity and, the Danish delegation explains the foundations and the objectives of this text. The purpose of the draft Council decision is to strengthen the ability of the authorities in the Member States to investigate and prosecute individuals who have participated in or furthered the committing of genocide, crimes against humanity, war crimes and other similar grave crimes against the international community. The objective should be promoted by ensuring the necessary co-operation and exchange of information both nationally between the authorities dealing with the immigration and law enforcement and between authorities in different Member States. The initiative is included in the general context of the ratification or the signature by all the Member States of the Rome Statute of the International Criminal Court. This Statute affirms that the most serious crimes of concern to the international community as a whole, in particular genocide, crimes against humanity and war crimes, must not go unpunished and that their effective prosecution must be ensured by taking measures at national level and by enhancing international co-operation. The Rome Statute recalls that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such international crimes. It further emphasises that the International Criminal Court is to be complementary to national criminal jurisdictions. The Member States are regularly being confronted with persons who have been involved in such crimes and who are seeking refuge within the European Union. In general, the investigation and prosecution of as well as exchange of information on genocide, crimes against humanity, and war crimes is to remain the responsibility of national authorities. The successful outcome of the effective investigation and prosecution of such crimes at national level depends to a high degree on close co-operation between the relevant national law enforcement authorities and the judicial and immigration authorities. To promote this end, it should be recalled that the Council on 13 June 2002 decided to establish a network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (2002/494 /JHA) (refer to procedure reference CNS/2001/0826). The present draft Council decision should be seen as a continuation of work along the line set out by the Council Decision of 13 June 2002. The exchanges of information should be between the national authorities dealing with the immigration and law enforcement and between the authorities in different Member States. In addition, it is the aim of the draft Council decision to secure the optimal use of information collected in countries, where such information is generally not easily accessible. The lack of such information will often prove to be the biggest obstacle in bringing offenders to justice in such cases. Due to the complex nature of most cases relating to these types of crime it is considered that it will facilitate considerablythe effectiveness of efforts by Member States both individually and jointly, if relevant knowledge and expertise is accumulated in a few specialised units dealing especially with the investigation and prosecution of such crimes. Lastly, it should be noted that this initiative is not expected to entail financial implications on the budgets of the European Union or the Member States.