

Combating crime: money laundering, confiscation of instrumentalities and proceeds. Framework Decision. Initiative France

2000/0814(CNS) - 26/06/2001 - Final act

PURPOSE : to adopt a framework decision on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime. **COMMUNITY MEASURE** : Council Framework Decision 2001/500/JHA on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime. **CONTENT** : in December 1998, the Council adopted Joint Action 98/699/JHA on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime. The Tampere European Council, in October 1999, accepted that the principle of mutual recognition should also apply to pre-trial orders, in particular to those who would enable competent authorities quickly to secure evidence and to seize assets which are easily movable. The following are the main elements of the Council Framework Decision: - reservations in respect of the 1990 Convention: in order to enhance action against organised crime, Member States shall take the necessary steps not to make or uphold reservations in respect of Article 2 (insofar as the offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year) and Article 6 (insofar as 'serious' offences are concerned i.e. those that are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those states which have a minimum threshold for offences in their legal system, offences punishable by deprivation of liberty or a detention order for a minimum of more than 6 months) of the 1990 Convention; - penalties: Member States must ensure that 'serious' offences referred to in Article 6(1)(a) and (b) of the 1990 Convention, as they result from Article 1(b) of this framework Decision, are punishable by deprivation of liberty for a maximum of not less than four years; - value confiscation: Member States have to ensure that their legislation and procedures on the confiscation of the proceeds from crime also allow for, at least in cases where these proceeds cannot be seized, for the confiscation of property the value of which corresponds to such proceeds, both in purely domestic proceedings and in proceedings instituted at the request of another Member State, including requests for the enforcement of foreign confiscation orders. Member States may exclude the confiscation of property the value of which corresponds to the proceeds of crime in cases on which that value would be less than EUR 4000; - processing of requests for mutual assistance: Member States shall take the necessary steps to ensure that all requests from other Member States which relate to asset identification, tracing, freezing or seizing and confiscation are processed with the same priority as is given to such measures in domestic proceedings; - repeal of existing provisions: Articles 1,3,5 (1) and 8(2) of Joint Action 98/699/JHA are hereby repealed. Lastly, Member States shall adopt the measures necessary to comply with the provisions of this framework decision by 31 December 2002. By 31 March 2003, Member States shall forward to the General Secretariat of the Council and to the Council the text of the provisions transposing into their national law the obligations arising from them this framework Decision and, where appropriate, the notifications made pursuant to Article 40(2) of the 1990 Convention. On the basis of this information and the written report from the Commission, the Council shall ascertain, by 31 December 2003, to what extent Member States have taken the measure necessary to comply with this framework decision. This framework Decision shall apply to Gibraltar as soon as the application of the 1990 Convention is extended to Gibraltar. **ENTRY INTO FORCE** : the framework Decision shall enter into force on 05/07/2001.