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

2000/0813(CNS) - 03/03/2004 - Follow-up document

Article 18 of the Council Framework Decision on the standing of victims in criminal proceedings requires the Commission, based on information received from the Member States, to prepare a report on the implementation of the Framework Decision into national law. The Commission Report is then to be forwarded to the Council for further consideration and consultation. Based on the contents of the Report the Council will need to evaluate the extent to which Member States have adopted the rules necessary to conform to the Framework Decision. This Commission Communication is the result of the obligations specified in Article 18. The Commission laments the late and, in some cases incomplete, responses it received from the Member States - this in spite of the deadline being extended. At the time the Report was drafted only ten Member States had sent "relatively" complete contributions on the implementation of the Framework Decision into national legislation. Denmark sent no contribution. The Commission states therefore that the analysis is fragmentary. When evaluating the implementation of the Framework Decision the Commission recognises the subtle, yet distinct, difference between the implementation requirements of a Framework Decision and a Directive. The general objective of the Framework Decision is to guarantee that victims throughout the EU have access to a comparable high level of protection; irrespective of the Member State is which they are present. Member States must therefore seek to approximate their rules and practices as regards the standing and rights of victims with particular regard to the right to be treated with respect for their dignity, the right to provide and receive information, the right to understand and be understood, the right to be protected at the various stages of procedure and the right to have allowance made for the disadvantage of living in a different Member State from the one in which the crime was committed. Based on the replies it received from the Member States the Commission Communication evaluates step-by-step, article-by-article, the ways in which Member States have sought to approximate their rules and provisions to the objectives set out in the Framework Decision. Having examined in detail, which Member States have implemented correctly, or otherwise, their obligations under the Framework Decision, the Commission, in its overall conclusions, suggests that the evaluation is superficial in nature - thanks in large part to the incomplete responses received. Nevertheless, this superficial impression made it possible to conclude that the correct state of transposal of the Decision is unsatisfactory. At the same time however, the Commission recognises that in certain Member States, such as France and Luxembourg, the transposal process is already in hand for some of the provisions. For example, France has notified a programme of fourteen victim-related measures that are to be developed over the next five years. In addition, the Commission accepts that the nature of the Decision leaves Member States considerable room for manoeuvre, making it difficult for the Commission to assess whether it has been properly transposed or not. In order not to repeat delays inthe following Report the Commission invites Member States to ensure a rapid and complete transposal of the Framework Decision and to inform it of this immediately, no later than 15 March 2004 providing a description of the measures taken.