

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

2000/0814(CNS) - 05/04/2004 - Follow-up document

This report has been prepared by the European Commission in line with an obligation to do so established in the 2001 Framework Decision on "Money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime". Its main remit is to examine what implementing measures have been taken by the Member States in connection with the Framework Decision. It has the additional aim of allowing the Council to assess the extent to which the Member States have taken the necessary measures to comply with the Framework Decision. The Commission makes a point of stating that the report is based on information it received from the Member States themselves. Many of the entries were received late and many were inadequate regarding the content of the information forwarded. Austria and Portugal failed to submit any information so the resulting report does not assess the state of play in these two countries. Having evaluated in some detail the submissions sent to it by the Member States, the Commission concludes that: In the case of Article 1, the large majority of Member States (twelve) seem to have complied with it, whereas Greece, Luxembourg and probably Sweden will have to uphold or redraft their reservations to Article 2 of the Convention. Similarly, a majority of Member States seem to comply with Article 1 (b), whereas Austria,, Greece, Luxembourg and Portugal do not meet the required terms and Spain is in process of amending its national legislation to fully comply, in substance, with the Decision. In the case of Article 2, eleven Member States provided the Commission with information demonstrating that they comply with the Article. In the case of Article 3, the question of value confiscation seems to be possible to a varying extent. At the least, it is used as an alternative, domestic measure in eleven of the EU Member States. In the case of "foreign requests" it applies to at least nine of the EU Member States. Spain and Luxembourg are in the process of preparing legislation to further comply with this Article. Some of the conditions applied to the enforcement of external orders are likely to be challenged by future instruments on confiscation. In the case of Article 4, the Commission has not received enough information to consider that this provision has been specifically transposed. Lastly, in the case of Article 7, the Commission has no evidence to assume that this provision was transposed by the Member States. To conclude, the Commission calls for a rapid and speedy implementation of all of the provisions outlined in the Framework Decision and to inform the Commission, no later than 01/09/04, of efforts to do so.