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

2002/0819(CNS) - 08/05/2003 - Final act

OBJECTIVE: to strengthen cooperation between Member States in order to ensure better investigation and prosecution of persons who have committed war crimes and crimes against humanity in the Union. COMMUNITY MEASURE: Council Decision 2003/335/JAI on the investigation and prosecution of genocide, crimes against humanity and war crimes. CONTENT: The Council adopted a decision, based on a Danish initiative, on the investigation and prosecution of genocide, crimes against humanity and war crimes. This decision aims to strengthen cooperation between national units in order to maximise the ability of law enforcement authorities in different Member States to cooperate effectively in the field of investigation and prosecution of persons who have committed or participated in the commission of genocide, crimes against humanity or war crimes, as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court adopted in Rome on 17 July 1998. The initiative covers both police and judicial cooperation on war crimes and crimes against humanity but also relates to the prosecutions of cases concerning the crimes in question, even though the initiative states clearly that the investigation and prosecution of as well as exchange of information on genocide and crimes against humanity is to remain the responsibility of national authorities. However, based on the principle whereby in accordance with the Rome Statute these crimes must not go unpunished, the Member States are required to ensure that their law enforcement authorities are sufficiently involved in the immigration services procedures to prevent war criminals or persons responsible for committing genocide from gaining asylum in an EU country without their knowing. To this end, the immigration authorities will have to warn the law enforcement authorities of any information that may suggest that a person could be involved in criminal acts of this nature. The initiative also calls on the competent law enforcement and immigration authorities to exchange information on this matter, while fully respecting the requirements of national and international data protection legislation. Furthermore, the decision calls on Member States that suspect an asylum-seeker of being linked in some way to either war crimes or similar serious crimes to ensure that the issue is investigated or the subject of a prosecution and to lend all necessary assistance, in accordance with the relevant national or international legislation. In order to tighten the net around war criminals in EU territory, it is also envisaged that when immigration services are led to believe that an asylum-seeker has been involved in acts of this type and has already approached the immigration services of another Member State, the competent authorities will cooperate and exchange information on the issue. Similarly, if the authorities of a Member State suspect that a war criminal is residing in another Member State or passing through its territory, they must immediately notify the authorities of that state. As regards infrastructure and resources, Member States must make every effort to provide law enforcement and immigration authorities with adequate resources and an effective infrastructure so as to enable them to fulfil the tasks set out in the decision. In this context, the Member States will have to determine whether or not it is possible to set up or appoint specialised units within their law enforcement authorities specifically responsible for these types of cases. Member States will also have to coordinate their efforts by making maximum use of the cooperation mechanism that already exists within the framework of the European Network of Contact Points in respect of persons responsible for genocide, crimes against humanity and war crimes, established by Council Decision 2002/494/JAI of 13 June 2002 (CNS/2001/826). At the initiative of the EU presidency, these contact points would meet at regular intervals in order to exchange information on their experiences. These meetings could take place alongside the meetings of the European Judicial Network and possibly be attended by representatives of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, the International Criminal Court and other relevant international bodies. ENTRY INTO FORCE: the decision entered into force on 14 May 2003. The Member States had to comply with the decision no later than 8 May 2005. It also applies to Gibraltar.