Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 22/07/2003 - Final act

PURPOSE : to establish the rules under which a Member State shall recognise and execute in its territory a freezing order issued by a judicial authority of another Member State in the framework of criminal proceedings. COMMUNITY MEASURE : Council Framework Decision 2003/577/JHA on the execution in the EU of orders freezing property or evidence. CONTENT : This Framework Decision applies to freezing orders issued for the purposes of securing evidence or freezing property. It lists the offences that will not be subject to verification of double criminality, so long as they are punishable in the issuing State by a custodial sentence of a maximum period of at least three years. The offences include terrorism, trafficking in human beings, sexual exploitation of children, corruption and money laundering. The Council, acting unanimously, may amend this list after consulting the European Parliament. The main points of the Framework Decision are as follows: - a freezing order together with the pro forma certificate will be transmitted by the judicial authority which issued it directly to the competent judicial authority for execution. If the authority in the executing State which receives a freezing order has no jurisdiction to recognise it, the freezing order must be sent to the competent judicial authority for execution; - the certificate referred to must be translated into one of the official languages of the executing State, but a Member State may declare that it will accept a translation in a language of the EU institutions; - the competent judicial authorities of the executing State must recognise a freezing order properly transmitted without any further formality being required and must "forthwith" take the necessary measures for its immediate execution. A report on the execution of the freezing order shall be made forthwith to the competent authority in the issuing State. The competent judicial authorities of the executing State must communicate the decision on a freezing order as soon as possible and, whenever practicable, within 24 hours of receipt of the freezing order; - there is a list of specified grounds for the non-recognition or non-execution of the order, as well as specified grounds for postponement of execution of a freezing order; - the Framework Decision sets out the subsequent treatment of the frozen property. Member states must ensure that any interested party has legal remedies without suspensive effect against a freezing order, in order to preserve their legitimate interest; - the Council will assess the extent to which Member States have complied with the provisions of the Decision by 02/08/06. DATE FOR IMPLEMENTATION: 02/08 /05. ENTRY INTO FORCE : 02/08/03.