Application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. Framework Decision. Initiative Austria, Finland, Sweden

2005/0805(CNS) - 27/04/2006

The Council instructed its preparatory bodies to further examine this proposal on the following basis: as a starting point, a derogation from double criminality for 32 offences as in the original proposal will apply. However, Member States may opt out of this principle. The working party will examine whether the possibility to opt out should be absolute or limited, or only be made for specified reasons (e.g. where the derogation from double criminality would be against fundamental principles of law of the executing State or could aggravate the situation for the sentenced person).

On 24 January 2005 Austria, Finland and Sweden submitted a proposal for a Framework Decision on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

The purpose is to establish the rules under which a Member State shall recognise and enforce on its territory a sanction imposed by a court of another Member State irrespective of whether or not enforcement has already been started.

The original proposal provided for a derogation from double criminality for 32 offences corresponding to the derogation found in previous instruments on mutual recognition (e.g. the European Arrest Warrant).