Basic information

2009/0802(CNS) CNS - Consultation procedure Decision	Procedure completed
Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden Amended by 2021/0395(COD) **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	WEBER Renate (ALDE)	22/07/2009
	Shadow rapporteur MACOVEI Monica (PPE)	

Former committee responsible	Former rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2927	2009-02-26
Justice and Home Affairs (JHA)	2979	2009-11-30
Justice and Home Affairs (JHA)	2936	2009-04-06

Key events

Date	Event	Reference	Summary
03/02/2009	Committee referral announced in Parliament		
26/02/2009	Debate in Council		Summary
06/04/2009	Debate in Council		Summary
19/05/2009	Legislative proposal published	08535/2009	Summary
30/09/2009	Vote in committee		Summary

01/10/2009	Committee report tabled for plenary, 1st reading/single reading	A7-0011/2009	
07/10/2009	Debate in Parliament		
08/10/2009	Decision by Parliament	T7-0027/2009	Summary
08/10/2009	Results of vote in Parliament		
30/11/2009	Act adopted by Council after consultation of Parliament		
30/11/2009	End of procedure in Parliament		
15/12/2009	Final act published in Official Journal		

Technical information

Procedure reference	2009/0802(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Amended by 2021/0395(COD)
Legal basis	EC Treaty (after Amsterdam) EC 031-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/00228

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE427.961	26/08/2009	
Amendments tabled in committee		PE428.153	23/09/2009	
Committee report tabled for plenary, 1st reading/single reading		A7-0011/2009	01/10/2009	
Text adopted by Parliament, 1st reading/single reading		T7-0027/2009	08/10/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Supplementary legislative basic document	05208/2009	20/01/2009	Summary
Document attached to the procedure	08338/2009	06/04/2009	Summary
Legislative proposal	08535/2009	19/05/2009	Summary

European Commission

Document type	Reference	Date	Summary

Follow-up document	COM(2014)0313	02/06/2014	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
Justice and Home Affairs act 2009/0948 OJ L 328 15.12.2009, p. 0042	Summary

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 08/10/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 544 votes to 184 with 17 abstentions, a legislative resolution amending, under the consultation procedure, the initiative of the Czech Republic, Poland, Slovenia, the Slovak Republic and of Sweden for adoption of a Council framework decision 2009/.../JHA on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

Parliament calls the Council not to formally adopt the initiative prior to the entry into force of the Treaty of Lisbon so as to allow the final act to be finalised ensuring a full role and control by the Court of Justice of the European Union, the Commission and Parliament (Protocol to the Treaty of Lisbon on transitional provisions). This being the case Parliament states that it is committed to considering any further proposal by urgent procedure.

The main amendments were as follows:

Competent authority: any matter concerning jurisdiction should be dealt with by judicial authorities, meaning a judge, investigating magistrate or public prosecutor.

Obligation to make contact with the competent authority of another country: in accordance with the Eurojust Decision, the contacting authority shall inform Eurojust at the same time as contacting the other Member States where parallel proceedings are taking place.

Obligation to reply: the contacted authority shall reply to a request submitted within any reasonable deadline indicated by the contacting authority, or, if no deadline has been indicated, within 30 days, and inform the contacting authority whether parallel proceedings are taking place in its Member State.

Required information: minimum information should be included such as name, nationality, date of birth and address of the suspected or accused person and of the victims, if applicable, and other details that are relevant where there is a suspicion that the identity of the suspected or accused person is false.

Obligation to enter into direct consultations: since no time limit was set in the proposal, Parliament specified that, when it is established that parallel proceedings exist, the competent authorities of the Member States concerned shall without undue delay enter into direct consultations. It added that in cases where the suspected or accused person is held in provisional detention or custody, direct consultations shall aim to reach consensus as a matter of urgency.

Procedure of reaching consensus: Parliament gives an indicative list of factors that must be considered when reaching consensus. These are: (i) the place where the major part of the crime was committed; (ii) the place where the major part of the loss was sustained; (iii) the location of the suspected or accused person and the possibilities for securing his or her surrender or extradition to another jurisdiction; (iv) the nationality or residence of the suspected or accused person; (v) any significant interests of the suspected or accused person; (vi) any significant interests of victims and witnesses; (vii) the admissibility of evidence or any delays that may occur.

Procedural guarantees: Parliament inserts a new article that states that the person formally charged shall notably at the trial stage: (i) be notified of exchanges of information and consultations between authorities of Member States and between authorities of a Member State and Eurojust, as well as of solutions chosen or failure to reach agreement under this Framework Decision, including of actors involved, contents and reasons; (ii) have a right to

make representations as to the best placed jurisdiction before a solution is chosen; (iii) have a right to appeal against any decision taken in accordance with Framework Decision or, in case of failure to reach agreement, to have it re-examined.

Member States shall ensure that appropriate translation, interpretation and legal aid are guaranteed.

Fundamental rights: a new article stipulates that any consensus reached on the basis of the Framework Decision must constitute an expression of fairness, independence and objectivity and must be reached by applying the principles recognised by Article 6 of the Treaty on European Union and reflected by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, so as to ensure that the human rights of the suspected or accused person are protected.

Cooperation with Eurojust: any national authority shall be free, at any stage of a national procedure, to ask for Eurojust's advice and to refer to Eurojust specific cases which raise the question of the best placed jurisdiction. If Member States decide not to comply with the opinion of Eurojust, they shall inform Eurojust in writing of their decision.

Relation to other legal instruments and other arrangements: Parliament specified that the protection afforded to the suspected or accused person must not reduced when applying bilateral or multilateral arrangements.

Inclusion in annual report: a new clause states that the cases referred to Eurojust on which consensus has not been reached among Member States shall be included in the annual report of Eurojust.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 20/01/2009 - Supplementary legislative basic document

PURPOSE : proposal on the prevention and settlement of conflicts of jurisdiction in criminal proceedings.

PROPOSED ACT: Council Framework Decision (Initiative of the Czech Republic, Poland, Slovenia, the Slovak Republic and Sweden)

BACKGROUND: the Hague Programme for strengthening freedom, security and justice in the EU adopted by the European Council in November 2004 notes that, in cross-border multilateral cases, particular attention should be given to possibilities of concentrating the prosecution in one Member State. Further attention should be given to proposals on conflicts of jurisdiction so as to complete the comprehensive programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters.

CONTENT: this Framework Decision establishes:

a) the procedural framework under which national authorities must exchange information about ongoing criminal proceedings for specific facts in order to find out whether there are parallel ongoing proceedings for the same facts in other Member State(s) and under which their national authorities will enter into direct consultations in order to reach an agreement on the best placed jurisdiction for conducting criminal proceedings for specific facts which fall within the jurisdiction of two or more Member States;

b) rules and common criteria which must be taken into account by the national authorities of two or more Member States whenever they seek agreement on the best placed jurisdiction for conducting criminal proceedings for specific facts.

The Framework Decision will apply to the following situations:

- where the competent authorities of one Member State conduct criminal proceedings and discover that facts which are the subject of these proceedings demonstrate **a significant link** to one or more other Member States, and it is possible that the competent authorities of such other Member State(s) are conducting criminal proceedings for the same facts, or

- where the competent authorities of one Member State conduct criminal proceedings and by whatever means become aware that the competent authorities of one or more other Member States conduct criminal proceedings for the same facts.

The Framework Decision will not apply to situations where no Member State has established its jurisdiction over the committed criminal offence. It will not apply to any proceedings brought against undertakings if such proceedings have as their object the application of European Community competition law. The Framework Decision does not confer any rights on a person to be invoked before the national authorities.

The proposal provides, inter alia, that in the event that the competent authorities of a Member State discover that facts which are the subject of ongoing proceedings demonstrate a significant link to one or more Member States, the notifying authority of the first Member State shall notify the existence of these proceedings to the responding authority(ies) of the Member State(s) significantly linked to them in order to find out whether the responding Member State(s) is/are conducting criminal proceedings for the same facts. This obligation to notify applies only to criminal offences punishable in the notifying State by a custodial sentence or a detention order for a **maximum period of at least one year**.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 06/04/2009 - Document attached to the procedure

The Council reached a **general approach** on the proposal for a Council Framework Decision on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

France, Ireland, the Netherlands and the United Kingdom maintain a Parliamentary scrutiny reservation.

This proposal is an initiative presented jointly, in January 2009, by the Czech Republic, Poland, Slovenia, Slovakia and Sweden.

The agreement on the general approach followed a debate focusing on outstanding issues such as:

- the role of Eurojust in dealing with cases where the competent authorities could not reach a consensus;
- the interaction with rules of European Community competition law, and the implementation period for the new legislation.

In line with the ministerial discussions on 27 February 2009, the **scope of the instrument has been restricted** to situations where the same person(s) is (are) subject to parallel criminal proceedings in different member states in respect of the same facts, which might lead to an infringement of the "*ne bis in idem*" principle.

The framework decision contains the following measures:

- a procedure for establishing contact between the competent authorities of Member States, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person(s);
- rules on the exchange of information, through direct consultations, between the competent authorities of two or more Member States conducting such parallel criminal proceedings(s), with a view to reaching a consensus on any effective solution aimed at avoiding the adverse consequences arising therefrom.

This Framework Decision does not affect any right of individuals to argue that they should be prosecuted in their own or in another jurisdiction, if such right exists under national law.

Council statement: the following statement will be inserted in the minutes of the Council meeting at which the Framework Decision will be finally adopted: the Council considers that the knowledge among practitioners of the "Guidelines for deciding which jurisdiction should prosecute?", published in the Annex to the Eurojust Annual Report 2003, should be enhanced.

The Council therefore calls on Eurojust and on the Member States to take appropriate measures with a view to achieving this aim, e.g. by disseminating the Guidelines among practitioners. It invites Eurojust, in cooperation with the Member States, to revise the Guidelines if and when appropriate, ensuring that practitioners are informed of any revised text.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 30/11/2009 - Final act

PURPOSE: prevention and settlement of conflicts of jurisdiction in criminal proceedings in view of maintaining and developing an area of freedom, security and justice.

LEGISLATIVE ACT: Council Framework Decision 2009/948/JHA on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

CONTENT: the Hague Programme on strengthening freedom, security and justice in the European Union, which was approved by the European Council at its meeting on 4 and 5 November 2004, requires Member States to consider legislation on conflicts of jurisdiction, with a view to increasing the efficiency of prosecutions while guaranteeing the proper administration of justice, so as to complete the comprehensive programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters.

The objective of this Framework Decision is to promote a closer cooperation between the competent authorities of two or more Member States conducting criminal proceedings, with a view to improving the efficient and proper administration of justice.

Such closer cooperation aims to:

- prevent situations where the same person is subject to parallel criminal proceedings in different Member States in respect of the same facts, which might lead to the final disposal of the proceedings in two or more Member States thereby constituting an infringement of the principle of "*ne bis in idem*"; and

- reach consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings.

This Framework Decision establishes a framework on:

- a procedure for **establishing contact between the competent authorities of Member States**, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person;

- the **exchange of information, through direct consultations**, between the competent authorities of two or more Member States conducting parallel criminal proceedings in respect of the same facts involving the same person, in case they already have knowledge of the existence of parallel criminal proceedings, with a view to reaching consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings.

The basic principle is that when a competent authority of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent authority of that other Member State to confirm the existence of such parallel proceedings, with a view to initiating direct consultations. The contacted authority shall reply to a request submitted

within any reasonable deadline indicated by the contacting authority, or, if no deadline has been indicated, without undue delay, and inform the contacting authority whether parallel proceedings are taking place in its Member State.

The process of exchange of information between competent authorities should be based upon the obligatory exchange of a specific minimum set of information, which should always be provided. The information concerned should notably facilitate the process of ensuring the proper identification of the person concerned and the nature and stage of the respective parallel proceedings.

When it is established that parallel proceedings exist, the competent authorities of the Member States concerned shall enter into direct consultations in order to reach consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings, which may, where appropriate, lead to the concentration of the criminal proceedings in one Member State. When the competent authorities of Member States enter into direct consultations on a case in order to reach consensus, they shall consider the facts and merits of the case and all the factors which they consider to be relevant.

Where it has not been possible to reach consensus, the matter shall, where appropriate, be referred to Eurojust by any competent authority of the Member States involved, if Eurojust is competent to act.

Where consensus has been reached on the concentration of criminal proceedings in one Member State, the competent authorities in the other Member State should act in a way that is compatible with that consensus.

This Framework Decision shall not apply to proceedings which are covered by Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

Report: the Commission shall, by 15 December 2012, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have complied with this Framework Decision, accompanied, if necessary, by legislative proposals.

IMPLEMENTATION: 15/06/2012.

ENTRY INTO FORCE: 15/12/2009.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 19/05/2009 - Legislative proposal

PURPOSE: to promote a closer cooperation between the competent authorities of two or more Member States conducting criminal proceedings whilst maintaining and developing an area of freedom, security and justice.

PROPOSED ACT: Council Framework Decision (initiative of the Czech Republic, Poland, Slovenia, Slovakia and Sweden).

BACKGROUND: the Hague Programme, which was approved by the European Council on 4 and 5 November 2004, requires Member States to consider legislation on conflicts of jurisdiction, with a view to increasing the efficiency of prosecutions while guaranteeing the proper administration of justice. The measures provided for in the draft Framework Decision should aim to prevent situations where the same person is subject to parallel criminal proceedings in different Member States in respect of the same facts, which might lead to the final disposal of those proceedings in two or more Member States. The draft Framework Decision therefore seeks to prevent an infringement of the principle of "ne bis in idem", as set out in Article 54 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and France on the gradual abolition of checks at their common borders as interpreted by the European Court of Justice.

Direct contact between competent authorities is the leading principle of cooperation established under the proposal.

CONTENT: the objective of this proposal is to promote a closer cooperation between the competent authorities of two or more Member States conducting criminal proceedings, with a view to improving the efficient and proper administration of justice.

Such closer cooperation aims to:

- prevent situations where the same person is subject to parallel criminal proceedings in different Member States in respect of the same facts, which might lead to the final disposal of the proceedings in two or more Member States thereby constituting an infringement of the principle of "ne bis in idem"; and
- reach consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings.

With a view to achieving these objectives, the draft Framework Decision establishes a framework on:

- **a procedure for establishing contact between the competent authorities of Member States**, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person;
- **the exchange of information, through direct consultations,** between the competent authorities of two or more Member States conducting parallel criminal proceedings in respect of the same facts involving the same person, in case they already have knowledge of the existence of parallel criminal proceedings, with a view to reaching consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings.

The basic principle is that when a competent authority of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall contact the competent authority of that other Member State to confirm the existence of such parallel proceedings, with a view to initiating direct consultations. The contacted authority is under an obligation to reply and the proposal sets out the minimum information to be provided in the request and in the response.

When it is established that parallel proceedings exist, the competent authorities of the Member States concerned shall enter into direct consultations in order to reach consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings, which may, where appropriate, lead to the concentration of the criminal proceedings in one Member State.

The draft Framework Decision shall be complementary and without prejudice to the Eurojust Decision.

As Eurojust is particularly well suited to provide assistance in resolving conflicts of jurisdiction, the referral of a case to Eurojust should be a usual step, when it has not been possible to reach consensus.

In addition, as long as consensus on the concentration of criminal proceedings has not been reached, the competent authorities of the Member States should be able to continue criminal proceedings for any criminal offence which falls within their national jurisdiction.

The draft Framework Decision shall not apply to proceedings which are covered by the terms of Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

It is proposed that Member States shall take the necessary measures to comply with the provisions of this Framework Decision 30 months after publication of this Framework Decision in the Official Journal.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 26/02/2009

The Council held a **policy debate** on key elements of a Draft Framework decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings, with a view to providing political guidance for carrying out further work.

EU delegations acknowledged the merit of this joint initiative put forward by the Czech Republic, Poland, Slovenia, Slovakia and Sweden last January.

The debate focused, in particular, on:

- the objectives and scope of the future instrument,
- the nature of the competent authorities which would be able to act under the Framework decision,
- the communication procedures.

A broad consensus has emerged on the advisability of **restricting the scope of the instrument** to situations where the same person(s) is (are) subject to parallel criminal proceedings in different Member States, which might lead to the double final disposal of those proceedings (the "*ne bis in idem*" legal principle).

In a common area of freedom, security and justice it is necessary to ensure that national authorities are made aware, at an early stage, of facts of a case which fall within the jurisdiction of two or more Member States and that agreement is reached to concentrate, as far as possible, criminal proceedings for such facts in a single jurisdiction.

In order to achieve these principles, the following measures are proposed:

- avoiding, as early in the proceedings as possible, situations where the same person is subject to parallel criminal proceedings in different Member States;
- ensuring that there is sufficient exchange of information between Member States, from an early stage, about ongoing proceedings which are significantly linked to another jurisdiction;
- putting in place transparent rules and common criteria which will be applied when Member States are seeking agreement on the best placed jurisdiction;
- making it possible for the national authorities concerned to enter into direct consultations with each other in order to quickly reach an agreement.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 06/04/2009

The Council reached agreement on a **general approach** for a draft framework decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings.

The agreement on the general approach (agreement awaiting the opinion of the European

Parliament) followed a debate focusing on outstanding issues such as:

- the role of Eurojust in dealing with cases where the competent authorities could not reach a consensus;
- the interaction with rules of European Community competition law, and the implementation period for the new legislation.

In line with the ministerial discussions on 27 February 2009, the **scope of the instrument has been restricted** to situations where the same person(s) is (are) subject to parallel criminal proceedings in different member states in respect of the same facts, which might lead to an infringement of the "*ne bis in idem*" principle.

The framework decision contains the following measures:

- a procedure for establishing contact between the competent authorities of Member States, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person(s);
- rules on the exchange of information, through direct consultations, between the competent authorities of two or more Member States conducting such parallel criminal proceedings(s), with a view to reaching a consensus on any effective solution aimed at avoiding the adverse consequences arising therefrom.

The framework decision does not affect any right of individuals to argue that they should be prosecuted in their own or in another jurisdiction, if such a right exists under national law.

Prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings. Framework Decision. Initiative Czech Republic, Poland, Slovenia, Slovakia and Sweden

2009/0802(CNS) - 02/06/2014 - Follow-up document

The Commission presents a report on the implementation by the Member States of Framework Decision 2009/948/JHA on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

The report recalls the main objective of the Framework Decision which is to **prevent unnecessary parallel criminal proceedings** concerning the same facts and the same person in the European Union.

It is in the interests of effective criminal justice within the European area of justice to ensure that criminal proceedings are conducted in the best-placed Member State, for example in the State where the major part of the criminality occurred, where the majority of the loss was sustained or where the suspected or accused person or victims have significant interests. This jurisdiction must be chosen in a transparent and objective way in order to safeguard legal certainty for citizens and in order to improve judicial cooperation in criminal matters between authorities that may exercise parallel competence.

This Framework Decision is the first important step in European Union law on prevention of conflicts of jurisdiction.3 In the context of the internationalisation of crime within the European Union, this measure provides added value by improving the proper functioning of the European area of justice. It therefore also contributes to the efficient administration of criminal justice in the Member States.

State of play of transposition: the purpose of this report is to provide a preliminary evaluation of the national transposition laws already received by the Commission.

At the time of writing, the Commission has received notifications on the national transposition laws from the following 15 Member States: **AT, BE, CY, CZ, DE, FI, HU, HR, LV, NL, PL, PT, RO, SI** and **SK.**

More than 1 year after the implementation date, 13 Member States have not yet notified the measures transposing the obligations of this Framework Decision: **BG**, **DK, EE, EL, ES, FR, IE, IT, LT, LU, MT, SE** and **UK.**

7 Member States informed the Commission of the process of preparing relevant transposition measures at national level **(BG, EL, ES, FR, LT, MT** and **SE)**.

In general, the Commission notes that Framework Decisions have to be implemented by Member States as is the case with any other element of the EU acquis. By their nature, Framework Decisions are binding upon the Member States as to the result to be achieved, but it is a matter for the national authorities to choose the form and method of implementation.

The non-implementation of the Framework Decisions by some Member States is problematic since those Member States who have properly implemented the Framework Decisions cannot benefit from their co-operation provisions in their relations with those Member States who did not implement them in time.

Indeed, the **principle of mutual recognition**, **which is the cornerstone of the European area of justice that this Framework Decision facilitates**, cannot work if instruments are not implemented correctly in all Member States concerned. As a consequence, when cooperating with a Member State who did not implement in time, even those Member States who did so will have to rely on the random and often lengthy practice of traditional mutual legal assistance in criminal matters without a reliable guarantee of a timely detection of bis in idem cases, which should already take place at early stages of criminal proceedings. Such a practice increases significantly a **risk of double jeopardy**.

Main conclusions: this Framework Decision is a first substantial step in preventing breaches of the "ne bis in idem" principle during criminal proceedings and in avoiding the risk of inadequate exercise of jurisdiction by Member States. The degree of implementation of this Framework Decision varies significantly. While recognising the efforts of the 15 Member States that have transposed to date, the **level of implementation of this important piece of legislation is far from satisfactory** as 13 other Member States have not transposed it.

The partial and incomplete transposition of this Framework Decision hampers the effective functioning of the European area of justice. It can moreover undermine the legitimate expectations of EU citizens in certain cases. This is why the Commission encourages the Member States to provide for exact statistical data as regards the referrals of cases, which would enable an assessment of the efficient application of this Framework Decision in practice.

Lastly, the Commission:

- regrets late implementation as this Framework Decision has the potential to increase the efficient administration of criminal justice in crossborder cases by saving time and human and financial resources of the competent authorities in the criminal proceedings;
- calls on all Member States to consider this report and to provide all further relevant information to the Commission, in order to fulfil their obligations under the Treaty;
- encourages those Member States that have signalled that they are preparing relevant legislation to enact and give notification of these national measures as soon as possible;
- urges all those Member States that have not yet done so to take swift measures to implement this Framework Decision to the fullest extent.