Which country's court is responsible (Conflicts of jurisdiction)

Jurisdiction refers to the right and power to administer justice within a defined territory. This includes the powers of legal courts to hear cases concerning persons, property or events and the authority to intervene, such as the arrest of persons or the seizure of property.

As a consequence of the right to free movement within the European Union (EU), the tendency by Member States to extend their jurisdiction and the advancements in technology which have taken place in the last decades, there are more and more situations where several Member States have jurisdiction to investigate and conduct criminal proceedings for the same facts.

If Member States were not obliged to inform each other of cases which could give rise to a conflict of jurisdiction or to consult each other in order to settle a conflict of jurisdiction, this could lead to proceedings being conducted in a Member State which is not the best suited for this (e.g. when the relevant evidence and witnesses are located in another Member State) or to parallel proceedings being conducted in different Member States.

To mitigate these risks, the Framework Decision on conflicts of jurisdiction has been adopted at the end of 2009. The objective of this instrument is to promote closer cooperation between Member States conducting criminal proceedings, in order to:

prevent situations where the same person is subject to parallel criminal proceedings in different Member States in respect of the same facts and

agree on a solution to avoid the negative consequences arising from such parallel criminal proceedings.

The Framework Decision aims to achieve this objective by establishing a mandatory consultation procedure in cases where parallel criminal proceedings are conducted in different Member States. If the consultation procedure does not result in a consensus being reached, the Member States involved shall refer the case to Eurojust.

Apart from the Framework Decision, which applies to criminal proceedings in general, there are a number of EU instruments which contain special rules on preventing and settling conflicts of jurisdiction, such as:

Framework Decision on the European Arrest Warrant (Article 16 FD 2002/584/JHA)

Framework Decision on combating terrorism (Article 9 FD 2002/475/JHA)

Framework Decision on attacks against information systems (Article 10 FD 2005/222/JHA)

Framework Decision on the fight against organised crime (Article 7 FD 2008/841/ JHA)

Council Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (Article 26 Council Regulation (EU) 2017/1939)

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