

Follow-up of the Mutual Recognition instruments

M-H Descamps, Legal Advisor



Follow-up of the Mutual Recognition instruments

- **Proposal for a methodology**
 - ➡ **Maintain the issue on the political agenda**
 - ➡ **Provide practitioners with relevant tools and information's**
 - ➡ **Identify obstacles and possible solutions, before and after the implementation date**

Follow-up of the Mutual Recognition instruments

- **Current situation**
- **Proposal for a methodology as part of the solution**

Current situation

- Delays in the legislative implementation in the Member States
- Lack of information on the state of play of the legislative implementation
- Even if implemented, instruments are barely applied

Current situation

- Delays in the legislative implementation in the Member States
 - ✘ FD Freezing of assets
 - > Timelimit: 02/08/2005
 - > 23 Member States
 - ✘ FD Financial penalties
 - > Timelimit: 22/03/2007
 - > 17 Member States
 - ✘ FD Confiscation orders
 - > Timelimit: 24/11/2008
 - > 14 Member States

Current situation

- More instruments to come in near future:
 - ✘ FD probation measures and alternative sanctions
 - > Timelimit: 06/12/2011
 - ✘ FD custodial sentences or measures involving deprivation of liberty
 - > Timelimit: 05/12/2011
 - ✘ FD European Evidence Warrant
 - > Timelimit: 19/01/2011
 - > To be noted that a new initiative on the European Investigation Order has been submitted

Current situation

- And more...

- ✘ FD Judgements in absentia

- > Timelimit: 28/03/2011

- ✘ FD supervision measures as an alternative to provisional detention

- > Timelimit: 01/12/2012

Current situation

- Lack of information on the state of play of the legislative implementation

Where to find relevant information?

<http://www.consilium.europa.eu/showPage.aspx?id=475&lang=EN&mode=g>

- ➡ **Not handy**
- ➡ **Not constantly kept up-to-date**

In the future, increased role of the Commission

Current situation

- Even if implemented, instruments are barely applied
 - No statistics but converging statements from practitioners

Follow-up of the Mutual Recognition instruments

- Proposal for a methodology, as part of the solution
 - **Maintain the issue on the political agenda**
 - **Provide practitioners with relevant tools and information's**
 - **Help to identify obstacles and possible solutions, before and after the implementation date**

Proposal for a methodology

- ▶ **Maintain the issue on the political agenda**
- Regular state of play submitted at CATS level
- Eventually Conclusions from the JHA Council of Ministers
- Need for Member States to notify the GSC / COM

Proposal for a methodology

- Provide practitioners with relevant tools and information's
- One single reference: the EJM website
<http://www.ejm-crimjust.europa.eu>
- Article 7 Decision 2008/976/JHA
- Eventually other place?

Proposal for a methodology

➡ Provide practitioners with relevant tools and information's

- Information on official notifications (tables)
- Atlas
- Certificate in all languages and useable format (up-to-date)
- National fact-sheets
- Handbook

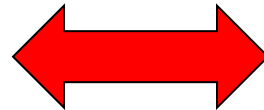
Proposal for a methodology

- Provide practitioners with relevant tools and information's

Handbook



Guidelines established at european level on the use of the instrument



national fact-sheets



Useful information on national execution proceeding in each State

Proposal for a methodology

- ▶ **Identify obstacles and possible solutions, before and after the implementation date**
- Provide forum for discussions
- Exchange of best practices
- COPEN working party

Conclusion

- Negotiation speed
- Others measures needed at national level
 - Trainee

THANK YOU

