Framework Decision 2008/841/JHA on the fight against organised crime

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

European Commission
Home Affairs and Migration

Framework Decision 2008/841/JHA

Preamble:

the European Union's objective is to improve the common capability of the Union and the Member States for the purpose, among others, of combating cross-border organised crime.

Framework Decision 2008/841/JHA

The main focus of the Framework Decision is the criminalisation of **offences relating to participation in a criminal organisation** (Article 2 of the Framework Decision) based on the **definitions** set out in Article 1.

Framework Decision 2008/841/JHA

Preceded by:

- **Joint Action 98/733/JHA** making it a criminal offence to participate in a criminal organisation in the Member States of the European Union.
- **2000 United Nations Convention against Transnational Organised Crime.**

Framework Decision 2008/841/JHA

‘criminal organisation’ means:

a **structured** association, established **over a period of time**, of **more than two persons** acting in concert with **a view to committing offences** which are punishable by deprivation of liberty or a detention order of a maximum of **at least four years or a more serious penalty**, to obtain, directly or indirectly, a

financial or other material benefit;

Framework Decision 2008/841/JHA

Legal obligation to criminalise:

(a) actively taking part in the organisation's criminal activities

*(**participation in a criminal organisation**)*

OR

(b) agreeing to that an activity should be pursued

*(**conspiracy in organised crime**).*

Other legal obligations

- *Ensuring the level of imprisonment for the criminal offences is* ***at least 2 years for the higher threshold*** *(Article 3).*
- *Ensuring the* ***conduct of legal persons is covered*** *either by criminal or non-criminal measures.*

Other legal obligations

- *Ensuring commission of an offence in a* framework of organised crime may be regarded as an **aggravating circumstance** (Article 3.2).
- **Ensuring cross-border cooperation** (Article 7(2)).
- *Ensuring that investigations or prosecutions* ***are not dependent on a report or accusation*** *(Article 8).*

European Commission

How to implement the FD?

Legislation

§ Offences and penalties (criminal laws, e.g. criminal code)

§ Liability of legal persons (criminal or non-criminal laws up to MS)

§ Jurisdiction and cross-border cooperation (code of criminal procedure)