

Combating illegal immigration: facilitation of unauthorised entry, movement and residence.

Initiative France

2000/0821(CNS) - 03/08/2000 - Legislative proposal

PURPOSE: French initiative with a view to the adoption of a Council Directive defining the facilitation of unauthorised entry, movement and residence. **CONTENT:** One of the objectives of the Union laid down in the Treaty on European Union is to combat trafficking in human beings by approximating, as far as necessary, rules on criminal matters in the Member States. The Treaty provides for the gradual creation of an area of freedom, security and justice, which means, among other things, that illegal immigration must be combatted. Consequently, measures should be taken to combat the aiding of illegal immigration, whether in connection with unauthorised crossing of the border in the strict sense or for the purpose of sustaining networks that exploit human beings. To that end, it is considered essential to approximate existing legal frameworks, which means, on the one hand, the precise and effective definition of the offence in question, which is the subject of this proposed Directive, and, on the other hand, harmonisation of the penalties laid down, of cases of exemption or, on the contrary, of aggravating circumstances, which is the subject of a draft Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence. The purpose of this Directive is to provide a better definition of the facilitation of illegal immigration and thus to render more effective the implementation of the Framework Decision on the strengthening of the penal framework in order to prevent the facilitation of unauthorised entry and residence. The main provisions of the draft Directive are:

- Member States must take the necessary measures to ensure that the act of facilitating intentionally, by aiding directly or indirectly, the unauthorised entry, movement or residence in its territory of an alien who is not a national of an EU Member State is regarded as an offence;
- Member States must take measures to ensure that participation, as an accomplice or instigator, in the facilitation of illegal immigration be considered to be an offence, as shall also the attempt to commit such an offence, and that such offences are punishable by effective, proportionate and dissuasive penalties;
- Each Member State may exempt from criminal prosecution certain persons whose link to the alien who has benefited from the aiding (i.e. a relative in the ascending or descending line, brothers and sisters and their spouses, his spouse or the person known to cohabit with him).