Combating illegal immigration: financial penalties imposed on carriers. Initiative France

2000/0822(CNS) - 28/06/2001 - Final act

PURPOSE : to harmonise the penalties imposed on carriers transporting foreign nationals into the territory of the Member States. COMMUNITY MEASURE : Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement. CONTENT : the Directive, stemming from a French initiative, aims to combat illegal immigration effectively by obliging Member States to introduce provisions laying down the obligations of carriers transporting foreign nationals into the territory of the Member States. Member States shall take the necessary steps to ensure that the obligation of carriers to return third country nationals provided for in the provisions of Article 26 (1)(a) of the Schengen Convention shall also apply when entry is refused to a third-country national in transit if: - the carrier which was to take him to his country of destination refuses to take him on board; - or the authorities of the State of destination have refused him entry and have sent him back to the Member State through which he transited. Member States shall also take the necessary measures to oblige carriers which are unable to effect the return of a third-country national whose entry is refused to find means of onward transportation immediately and to bear the cost thereof, if immediate onward transportation is not possible, to assume responsibility for the costs of the stay and return of the third-country national in question. Moreover, Member States shall take the necessary measures to ensure that the penalties applicable to carriers under the provisions of the Schengen Convention are dissuasive, effective and proportionate and that: - either the maximum amount of the applicable financial penalties is not less than EUR 5000 or equivalent national currency at the rate of exchange on 10 August 2001, for each person carried, or; - the minimum amount of the applicable financial penalties is ont less than EUR 3000 or equivalent national currency at the rate of exchange on 10 August 2001, for each person carried, or - the maximum amount of the penalty imposed as a lump sum for each infringement is ot less than EUR 500 000 or equivalent national currency rate of exchange on 10 August 2001, irrespective of the number of persons carried. Lastly, the Directive shall not prevent Member States from adopting or retaining, for carriers which do not comply with the obligations arising from the provision of Article 26(2) and (3) of the Schengen Convention and Article 2 of this Directive, other measures involving penalties of another kind, such as immobilisation, seizure and confiscation of the means of transport and, or temporary suspension or withdrawal of the operating licence. Member States shall take the necessary measures to comply with this Directive not later than 11 February 2003. ENTRY INTO FORCE : this Directive shall enter into force 9 August 2001.