Combating certain forms and expressions of racism and xenophobia by means of criminal law. Framework Decision

2001/0270(CNS) - 29/11/2001 - Legislative proposal

PURPOSE : to establish a Framework Decision for the approximation of laws relating to offences involving racism and xenophobia. CONTENT : Racism and xenophobia are direct violations of the principles of liberty, democracy, respect for human rights and the rule of law upon which the EU is founded. Some difficulties have been encountered regarding judicial cooperation in this area and there is a need for further improvement of Member States' criminal laws in order to ensure the implementation of comprehensive legislation to fight racism and xenophobia. The Framework Decision: - defines a common criminal approach in the EU in order to ensure that the same behaviour constitutes an offence in all Member States and that there are effective penalties for natural and legal persons having committed or being liable for such offences. - states that sanctions for legal persons may include exclusion from entitlement to public benefits or aid; temporary or permanent disqualification from the practice of commercial activities; a judicial winding-up order, or closure of establishments which have been used for committing the offence. - provides that racist or xenophobic motivation is considered an aggravating factor when imposing penalties for ordinary offences. - provides that an offence concerning racism and xenophobia committed in the exercise of a professional activity is regarded as an aggravating circumstance, since it entails an abuse and is particularly reprehensible. - ensures that investigations of offences involving racism and xenophobia are not dependent on reports or accusations made by victims, who are often reluctant to initiate legal proceedings. - contains procedural provisions on jurisdiction, as well as extradition and prosecution. The provisions on the latter will no longer be applicable as soon as the Commission's proposal for a European arrest warrant is adopted, which will replace extradition in the EU. For the moment, the relevant article provides that a Member State which does not extradite its own nationals must take the necessary measures to establish its jurisdiction over and, where appropriate, prosecute the offences concerned when committed by its own nationals on the territory of another Member State.