

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

Initiative France

2000/0821(CNS) - 28/11/2002 - Final act

PURPOSE : to define the facilitation of unauthorised entry, transit and residence.

COMMUNITY MEASURE : Council Directive 2002/90/EC.

CONTENT : the Council adopted a Directive defining the facilitation of unauthorised entry, transit and residence and a Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry transit and residence (refer to CNS/2000/0821).

The purpose of the Directive is to provide a definition of the facilitation of illegal immigration and consequently to render more effective the implementation of framework Decision 2002/946/JHA in order to prevent that offence. The Directive as well as the Framework Decision supplement other instruments adopted in order to combat illegal immigration, illegal employment, trafficking in human beings and the sexual exploitation of children.

As regards the general infringements, the Directive stipulates that each Member State shall adopt appropriate sanctions on:

- a) any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens;
- b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens.

Any Member State may decide not to impose sanctions with regard to the behaviour defined above by applying its national law and practice for cases where the aim of the behaviour is to provide humanitarian assistance to the person concerned.

Concerning instigation, participation and attempt, each Member State shall take the measures necessary to ensure that the sanctions referred to above are also applicable to any person who:

- a) is the instigator of,
- b) is an accomplice in, or
- c) attempts to commit an infringement.

ENTRY INTO FORCE : 5 December 2002.

DATE OF TRANSPOSITION : 5 December 2004.