Strengthening the criminal law framework to combat intellectual property offences

2005/0128(CNS) - 12/07/2005 - Legislative proposal

PURPOSE: to strengthen the criminal law framework to combat intellectual property offences.

PROPOSED ACT: Council Framework Decision.

CONTENT: Intellectual property offences have become a very worrying phenomenon, linked in some cases to organised crime. We now have a substantial cross-border trade in goods which infringe intellectual property rights, involving: illegal production of counterfeit goods, organised networks for the transport of goods from the place of production to the place of consumption, sale of illegal goods and laundering of the profits.

To combat intellectual property offences effectively, the proposal for a European Parliament and Council Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights must be supplemented by means of measures for the approximation of criminal legislation and cooperation under Title VI of the Treaty on European Union.

This proposal for a Framework Decision therefore aims to strengthen the criminal-law measures to approximate the provisions laid down by law or regulation in the Member States concerning intellectual property rights offences and to facilitate and encourage cooperation between the Member States to repress these offences.

As regards impact on fundamental rights, it should be emphasised that the direct objective of this initiative is to implement Article 17(2) of the Charter of Fundamental Rights which states that “Intellectual property shall be protected”; it does this by approximation of legislation while respecting the different legal traditions and systems of the Member States as well as other fundamental rights and principles recognised by the Charter. The level of sentences has been chosen pursuant to the seriousness of the different forms of wrongful conduct, in accordance with Article 49(3) of the Charter to the effect that sentences should not be disproportionate to the offence.