## Basic information

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| **2000/0822(CNS)**<br><br>CNS - Consultation procedure<br>Directive | Procedure completed |
| Combating illegal immigration: financial penalties imposed on carriers.<br>Initiative France<br><br>**Subject**<br><br>7.10.08 Migration policy<br>7.40 Judicial cooperation | |

## Key players

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|---|---|---|---|
| European Parliament | **Committee responsible** | **Rapporteur** | **Appointed** |
| | LIBE Citizens' Freedoms and Rights, Justice and Home Affairs | KIRKHOPE Timothy (PPE-DE) | 10/10/2000 |

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| Council of the European Union | **Council configuration** | **Meetings** | **Date** |
| | Justice and Home Affairs (JHA) | 2314 | 2000-11-30 |
| | Justice and Home Affairs (JHA) | 2350 | 2001-05-28 |
| | Transport, Telecommunications and Energy | 2364 | 2001-06-28 |

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| European Commission | **Commission DG** | **Commissioner** |
| | Justice and Consumers | |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 04/09/2000 | Initial legislative proposal published | 10701/2000 | Summary |
| 02/10/2000 | Committee referral announced in Parliament | | |
| 29/11/2000 | Legislative proposal published | 14074/2000 | Summary |
| 30/11/2000 | Debate in Council | | Summary |
| 27/02/2001 | Vote in committee | | Summary |
| 27/02/2001 | Committee report tabled for plenary, 1st reading/single reading | A5-0069/2001 | |
| 13/03/2001 | Decision by Parliament | T5-0122/2001 | Summary |
| 13/03/2001 | Debate in Parliament | | |
| 28/06/2001 | Act adopted by Council after consultation of Parliament | | |

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| 28/06/2001 | End of procedure in Parliament | | |
| 10/07/2001 | Final act published in Official Journal | | |

## Technical information

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| **Procedure reference** | 2000/0822(CNS) |
| **Procedure type** | CNS - Consultation procedure |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Directive |
| **Legal basis** | EC Treaty (after Amsterdam) EC 061- |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | LIBE/5/13633 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee report tabled for plenary, 1st reading/single reading | | A5-0069/2001 | 27/02/2001 | |
| Text adopted by Parliament, 1st reading/single reading | | T5-0122/2001<br>OJ C 343 05.12.2001, p. 0021-0081 | 13/03/2001 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Initial legislative proposal | 10701/2000<br>OJ C 269 20.09.2000, p. 0008 | 04/09/2000 | Summary |
| Legislative proposal | 14074/2000 | 29/11/2000 | Summary |

## Additional information

| Source | Document | Date |
|---|---|---|
| European Commission | EUR-Lex | |

## Final act

Directive 2001/0051
OJ L 187 10.07.2001, p. 0045 Summary

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

2000/0822(CNS) - 30/11/2000

The Council held an exchange of views on outstanding issues as regards a draft Directive on the harmonisation of penalties imposed on carriers transporting into the territory of the Member States third-country nationals lacking the documents necessary for their admission. At the end of these discussions, and given the reservations expressed by three delegations, the Council agreed to return this issue to the Permanent Representatives Committee so that it could work out alternative wording which might be satisfactory to all the delegations. The reservations entered by the three delegations mentioned above related to the financial penalties, and particularly the sum of EUR 5000 per stowaway proposed by the Directive, respect for the practices of the Member States when the person being carried submits an asylum application or is admitted to the territory of a Member State, and a question of a legal nature for one Member State whose legal system does not contain provisions imposing fines on carriers.

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

2000/0822(CNS) - 13/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the non-binding resolution drafted by Mr Timothy KIRKHOPE (EPP/ED, UK) which rejects the French Initiative on the harmonisation of penalties on carriers transporting third country nationals into the EU. By 463 votes in favour, 26 against and 8 abstentions it asked the French Republic to withdraw the initiative and in co-operation with the Commission to reach agreement on developing a Community-wide immigration policy. (Please refer to the previous text).

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

2000/0822(CNS) - 29/11/2000 - Legislative proposal

A new proposal of the text of the French Initiative was proposed to the Union delegations to take account of a certain number of new elements and in particular the concerns expressed by Sweden, Belgium and the Netherlands in relation to this text. These elements relate in particular to: - the respect of the practices of the Member States when the person is being carried submits an asylum application or is admitted to the territory of a Member State (concern expressed in particular by Belgium and Sweden); - the financial penalties per stowaway, that being EUR 5000 (Dutch concern); - the commitment of Sweden to provide provisions, bearing in mind that there is no legislation in this country which imposes fines to carriers of illegal immigrants. In the meantime, the country confirms its intention to continue the negotiations with the view to reaching an agreement. This new text reflects the latest state of play within the Council and lays down the proposal on which the Parliament shall be duly consulted.

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

2000/0822(CNS) - 04/09/2000 - Initial legislative proposal

PURPOSE : to harmonise the financial penalties imposed on carriers of third country nationals without travel documents or visas on the territory of the European Union. CONTENT : the draft proposal (French initiative), aims to combat illegal immigration by providing measures to Member States which set out the obligations of carriers of foreign nationals on the Member States' territory. To this effect, it provides for the harmonisation of financial penalties currently provided by the Member States, by establishing a minimum amount in the case of violation of these obligations. This amount is fixed at EUR 2000 per stowaway. The carriers concerned are sea and air carriers as well as coaches carrying out international cross-border links with the exception of local border traffic. It is provided that the carrier who allows the entry of the third-country national on to the territory of a Member State without travel documents or without a visa, shall take reponsibility for this person and return them to the Member State where they came from or to a Member State where their admission shall be guaranteed. Similar measures are provided for third country nationals in transit. If the carrier is not able to ensure the return of the stowaway in question, his redirection by another means shall be provided, the costs of which shall be incurred by the carrier. The provisions provided in the draft directive shall not in any case be prejudicial to the exercise of the right to asylum. As a consequence, the Member States shall not apply penalties when the non-Community national concerned is admitted on the territory for reasons of asylum. The Member States shall be authorised to support or to introduce additional measures for carriers if they wish (including confiscation of the vehicle, temporary suspension or retracting of the right to operate). Lastly, if by applying the Schengen Convention, a Member State decides to re-establish border controls, it should be able to apply the measures provided by the draft directive at its internal borders. It should also be added that the draft directive is noted in the extension of the Schengen Acquis, in accordance with the protocol integrating the Schengen Acquis.

# 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.