Basic information

2001/0024(CNS) CNS - Consultation procedure Decision	Procedure completed
Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision Repealed by 2010/0065(COD) **Subject** 7.30.30.02 Action to combat violence, trafficking in human beings and migrant smuggling	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	KLAMT Ewa (PPE-DE)	27/02/2001

Committee for opinion	Rapporteur for opinion	Appointed
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
FEMM Women's Rights and Equal Opportunities (Associated committee)	ERIKSSON Marianne (GUE/NGL)	27/02/2001

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2446	2002-07-19
Justice and Home Affairs (JHA)	2350	2001-05-28
Justice and Home Affairs (JHA)	2370	2001-09-27

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
22/01/2001	Legislative proposal published	COM(2000)0854	Summary

12/02/2001	Committee referral announced in Parliament		
29/05/2001	Vote in committee		Summary
29/05/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0183/2001	
11/06/2001	Debate in Parliament		Summary
12/06/2001	Decision by Parliament	T5-0314/2001	Summary
27/09/2001	Debate in Council		Summary
19/07/2002	Act adopted by Council after consultation of Parliament		
19/07/2002	End of procedure in Parliament		
01/08/2002	Final act published in Official Journal		

Technical information

Procedure reference	2001/0024(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Repealed by 2010/0065(COD)
Legal basis	Treaty on European Union (after Amsterdam) M 029 Treaty on European Union (after Amsterdam) M 031 Treaty on European Union (after Amsterdam) M 034-p2 Rules of Procedure EP 57_o
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/14382

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0183/2001	29/05/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0314/2001 OJ C 053 28.02.2002, p. 0024-0114 E	12/06/2001	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2000)0854	22/01/2001	Summary
Follow-up document	COM(2006)0187	02/05/2006	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR0087/2001 OJ C 357 14.12.2001, p. 0041	14/06/2001	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2002/0629
OJ L 203 01.08.2002, p. 0001-0004 Summary

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 02/05/2006 - Follow-up document

The European Commission has prepared this Report in compliance with Article 10 of the Council Framework Decision on combating trafficking in human beings. Member States had until 1 August 2004 to comply with the Framework Decision. By 1 August 2004, however, only four Member States (France, Finland, Cyprus and Austria) had forwarded their implementing measures to the Commission. By the end of 2005 the Commission had received no or only preliminary information from four Member States (Portugal, Luxembourg, Ireland and Lithuania). As a result the Report does not refer to these Member States.

The objective of the Framework Decision is to approximate the laws of the Member States in the field of police and judicial co-operation in criminal matters relating to the fight against trafficking in human beings. It also introduces a common framework of provisions, at a European level, which address certain issues such as criminalisation, penalties and other sanctions, aggravating circumstances, jurisdiction, prosecution as well as protection of and assistance to victims.

In its findings the Commission notes that not all of the Member States have transmitted the texts of their implementing measures in a timely fashion. The assessments and conclusion of the Report are, as a result, based on incomplete information. Nevertheless, on the basis of information received, the Commission draws the conclusion that the requirements set out in the Council Framework Decision appear to have been largely met by the Member States – either through pre-existing domestic laws, or through the implementation of new and specific legislation.

As a result of the Council Framework Decision, Member States generally now dispose of specific criminal law provisions incriminating trafficking in human beings for the purpose of sexual and labour exploitation and providing for effective proportionate and dissuasive penalties. The level of penalties in the Member States does vary, however, and the Commission notes that it may have to examine the possibility of further harmonisation in that regard. In other findings, the Commission remarks that:

- In general, there was no need for Member States to amend their domestic legislation in order to comply with Article 6 (on extra-territorial jurisdiction) of the Council Framework Decision as pre-existing measures were already in place.
- In general, the Member States complied with Article 7 (1) which states that trafficking offences shall not be dependent on a report or accusation made by the victim.
- Protection and assistance regimes may be subject to further scrutiny given that the Commission received only limited information on the implementation of these measures (Articles 7(2) and (3)).
- The Commission received limited information on provisions relating to particularly vulnerable victims and can therefore not provide an exhaustive evaluation of this matter. However, in accordance with an Action Plan adopted by the Council, the Commission will seek to develop legislation concerning vulnerable victims involved in criminal proceedings.

The Commission calls on the Member States to provide it with more specific information. Once a number of related Reports have been completed (such as on the practice of victim support and assistance and a forthcoming Report on combating sexual exploitation and child pornography) the Commission will be able to form a more complete picture on the implementation of human trafficking and related Member State legislation.

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 27/09/2001

The Council reached a political agreement, with prejudice from parliamentary reserves from certain delegations and the examination of the European Parliament's opinion, on the draft framework decision, on coming to a consensus on the only question which remains open, that is the minimum ceiling of maximum penal sanctions to be imposed to persons judged guilty of human trafficking (8 years when it is an aggravating circumstance). The European Parliament's opinion shall be examined by the Group of Advisors JHA with a view to the adoption of the instrument as soon as possible. At the time of its formal adoption, a joint declaration from Denmark, Austria and Germany should be included in the minutes specifying their opposition to the principle of the approximation of sentences by setting a minimum level for a maximum sentence.

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 12/06/2001 - Text adopted by Parliament, 1st reading/single reading

In adopting the report of Eva KLAMT (EPP-ED, D) (see previous document), MEPs made some minor changes. In spite of its broad agreement, MEPs adopted 37 amemdments to tidy up the text. In motions of order before the vote, Hubert PIRKER (EVP/ED, A) and Anna TERRON I CUSI (PES, E) protested that Council had already reached agreement on the framework decision on all points but has not waited for Parliament's formal advice, even though Council had promised to take Parliament's view into account, as is compulsory according to the Treaty.

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 28/05/2001

The Council reached political agreement on the main elements of the draft framework decision, but failed to reach consensus on the level of penal sanctions for such offences. The Council asked COREPER to continue work on this with the aim of reaching agreement as soon as possible. The Council held a general debate on two problems of a horizontal nature, namely the extent to which approximation of national criminal law is required at all, and which method should be applied. During discussion, it emerged that approximation could be necessary for certain specific types of offences, but that the specifity of national systems had to be taken into account. The Council asked COREPER and the relevant working bodies to look into this further.

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 22/01/2001 - Legislative proposal

PURPOSE : to present a proposal for a Council Framework Decision on combating trafficking in human beings. CONTENT : on 24 February 1997 the Council adopted a Joint Action 97/154/JHA concerning action to combat trafficking in human beings and sexual exploitation of children. Through the Joint Action, the Member States undertook to review their existing laws with a view to providing that trafficking in human beings and the sexual exploitation of children were criminal offences. Since the adoption of the Joint Action in 1997, actions and initiatives against trafficking in human beings have developed considerably in number and in substance at the level of the European Union, however continuing divergence of legal approaches in the Member States clearly demonstrates the need for further action against the menace of trafficking. The Commission believes that a further response to the issue is required at EU level. Therefore, it proposes that the use of a Framework Decision, an instrument introduced by the Amsterdam treaty, will reinforce a common approach of the EU in this area and fill gaps in existing legislation. The proposal also includes provisions on horizontal judicial issues such as jurisdiction and cooperation between Member States. The proposal covers trafficking in human beings for the purposes of labour and sexual exploitation, not including sexual exploitation of children and child pornography which is covered in a separate proposal (see CNS/2001/0025). The main provisions of the proposal are as follows: - an obligation put on the Member States to ensure that trafficking in human beings for the purpose of labour exploitation is punishable: trafficking is defined to include the recruitment, transportation, or transfer of a person, including harbouring and subsequent reception of and the exchange of control over him or her for the purpose of exploiting him or her in the production of goods or provisions of services. Labour exploitation is defined to be an infringement of labour standards governing working conditions, salaries and health and safety; - an obligation put on the Member States to ensure that trafficking in human beings for the purpose of sexual exploitation is punishable. Sexual exploitation includes the purposes to exploit a person in prostitution, in pornographic performances or in the production of pornographic material; - an obligation on Member States to ensure that instigation of, aiding, abetting and attempt to commit trafficking for the purpose of labour exploitation and trafficking for

the purpose of sexual exploitation is punishable. The penalties for labour exploitation shall include imprisonment with a maximum penalty that is not less than 6 years. In cases where trafficking in human beings involves criminal conduct, the Member States shall ensure that when aggravating circumstances apply the offences shall be punishable by terms of imprisonment with a maximum penalty that is not less than 10 years. Moreover, provisions are also provided in relation to the liability of the legal persons. In addition, the framework decision establishes a series of criteria conferring jurisdiction on national enforcement andjudicial authorities to prosecute and examine cases involving the offences referred to in this framework decision. A Member State shall establish its jurisdiction in three situations: - where the offence is committed in whole or in part on its territory, irrespective of the status or the nationality of the person involved (territoriality principle), or - where the offender is a national (active personality principle) or - where the offence is committed for the benefit of a legal person established in the territory of that Member State. Other provisions takes account of the fact that some Member States do not extradite their nationals and seeks to ensure that persons suspected of having committed trafficking offences do not evade prosecution because extradition is refused in principle on the grounds that they are nationals of that state. The Commission is also of the view that an Article on victims should be included in this Framework Decision. In addition, the Framework Decision requires Member States to afford each other mutual assistance to the widest extent possible in judicial proceedings on trafficking in human beings. It also stipulates that the appropriate use of existing co-operation mechanisms such as the liaison magistrates and the European Judicial Network and that Europol should be properly involved. Lastly, Member States that shall take the necessary measures to comply with this Framework Decision not later than 31.12.2002. Furthermore, the Council will by the 30.06.2004 assess the extent to which Member States have taken the necessary measures to comply with this Framework Decision.

Combating trafficking in human beings: offences, penalties and sanctions, liability in criminal matters. Framework Decision

2001/0024(CNS) - 19/07/2002 - Final act

PURPOSE : to adopt a Council Framework Decision on combating trafficking in human beings. COMMUNITY MEASURE : Council Framework Decision 2002/629/JHA on combating trafficking in human beings. CONTENT : this present framework decision intends to replace Council Joint Action 97/154/JHA of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children. The reason for the current framework decision being that there was a need for further legislative action addressing the divergence of legal approaches in the Member States in this area. Trafficking in human beings comprises serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, as well as the use of violence, threats, debt bondage and coercion. It is necessary that the serious criminal offence of trafficking in human beings be addressed not only through individual action by each Member State but by a comprehensive approach in which the definition of constituent elements of criminal law common to all Member States, including effective, proportionate and dissuasive sanctions, forms an integral part. In accordance with the principles of subsidiarity and proportionality, this Framework Decision confines itself to the minimum required in order to achieve those objectives at European level and does not go beyond what is necessary for that purpose. The Framework Decision sets out the following measures : - offences concerning trafficking in human beings for the purposes of labour exploitation or sexual exploitation : each Member State shall take the necessary measures to ensure that the following acts are punishable: the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person, where: a) use is made of coercion, force or threat, including abduction, or b) use is made of deceit or fraud, or c) there is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or d) payments or benefits are given or received to achieve the consent of a person having control over another person for the purpose of exploitation of that person's labour or services, including at least forced or compulsory labour or services, slavery or practices similar to slavery or servitude, or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography. It should be clarified that for the purpose of this Framework Decision, 'child' shall mean any person below 18 years of age. - instigation, aiding, abetting and attempt : each Member State shall take the necessary measures to ensure that the instigation of, aiding, abetting or attempt to commit an offence is punishable. - penalties : each Member State shall take the necessary measures to ensure that an offence is punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition. There shall be a term of imprisonment with a maximum penalty that is not less than eight years where it has been committed in any of the following circumstances: a) the offence has deliberately or by gross negligence endangered the life of the victim; b) the offence has been committed against a victim who was particularly vulnerable. A victim shall be considered to have been particularly vulnerable at least when the victim was under the age of sexual majority under national law and the offence has been committed for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography. - liability of legal persons : each Member State shall take the necessary measures to ensure that legal persons can be held liable for an offence, committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person. - Sanctions on legal persons : each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 4 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions. - Jurisdiction and prosecution : each Member State shall take the necessary measures to establish its jurisdiction over an offence where: the offence is committed in whole or in part within its territory, or the offender is one of its nationals, or the offence is committed for the benefit of a legal person established in the territory of that Member State. A Member State which, under its laws, does not extradite its own nationals shall take the necessary measures to establish its jurisdiction over and to prosecute, where appropriate, an offence when it is committed by its own nationals outside its territory. - protection of and assistance to victims : where the victim is a child, each Member State shall take the measures possible to ensure appropriate assistance for his or her family. Lastly, the Council will, by 1 August 2005 at the latest, on the basis of a report established on the basis of this information and a written report transmitted by the Commission, assess the extent to which Member States have taken the necessary measures in order to comply with this Framework Decision. ENTRY INTO FORCE : 01.08.2002. IMPLEMENTATION : 01.08.2004 in all the Member States including Gibraltar. From this date, Joint Action 97/154/JHA shall cease to apply in so far as it concerns trafficking in human beings.