

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.