


Procedure file

| Basic information | | |
|---|--------------------------------|-------------------------------|
| CNS - Consultation procedure Decision | 2003/0812(CNS) | Procedure lapsed or withdrawn |
| Trafficking in human beings: prevention and control of trafficking in human organs and tissues. Framework Decision. Initiative Greece | | |
| 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 | PSE EVANS Robert | 23/04/2003 |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| Council of the European Union | ENVI Environment, Public Health, Consumer Policy | PPE-DE LIESE Peter | 22/05/2003 |
| | FEMM Women's Rights and Equal Opportunities | The committee decided not to give an opinion. | |
| | Commission DG Justice and Consumers | Commissioner | FRATTINI Franco |

| Key events | | | |
|------------|---|---|---------|
| 28/03/2003 | Legislative proposal published | 07247/2003 | Summary |
| 10/04/2003 | Committee referral announced in Parliament | | |
| 30/09/2003 | Vote in committee | | Summary |
| 30/09/2003 | Committee report tabled for plenary, 1st reading/single reading | A5-0326/2003 | |
| 22/10/2003 | Debate in Parliament |  | |
| 23/10/2003 | Decision by Parliament | T5-0457/2003 | Summary |

| Technical information | |
|-----------------------|------------------------------|
| Procedure reference | 2003/0812(CNS) |
| Procedure type | CNS - Consultation procedure |

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| Procedure subtype | Legislation |
| Legislative instrument | Decision |
| Legal basis | Treaty on the European Union (after Amsterdam) M 031-; Treaty on the European Union (after Amsterdam) M 029; Treaty on the European Union (after Amsterdam) M 039-p1; Treaty on the European Union (after Amsterdam) M 034-p2b |
| Stage reached in procedure | Procedure lapsed or withdrawn |
| Committee dossier | LIBE/5/19435 |

Documentation gateway

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|---|---|------------|-----|---------|
| Document attached to the procedure | 06290/2003 | 13/02/2003 | CSL | Summary |
| Legislative proposal | 07247/2003 OJ C 100 26.04.2003, p. 0027-0030 | 28/03/2003 | CSL | Summary |
| Committee report tabled for plenary, 1st reading/single reading | A5-0326/2003 | 30/09/2003 | EP | |
| Text adopted by Parliament, 1st reading/single reading | T5-0457/2003 OJ C 082 01.04.2004, p. 0321-0580 E | 23/10/2003 | EP | Summary |

Additional information

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| European Commission | EUR-Lex |
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Trafficking in human beings: prevention and control of trafficking in human organs and tissues. Framework Decision. Initiative Greece

This document consists of the explanatory note to the delegations concerning the Greek Initiative for the adoption by the Council of a draft Framework Decision on the prevention and control of trafficking in human organs and tissues. As stated in the initial proposal, the aim of the proposed draft is to contribute to combating trafficking in human organs and tissues as a form of organised crime. The draft text sets out to describe the basic forms of trafficking in human organs and tissues which must be treated as offences in all the Member States. In addition, minimum penalties are proposed which are deemed necessary, proportionate and just given the seriousness of the crimes involved. The need for common action to combat trafficking in human beings and, thus, trafficking in organs and tissues was stressed by the European Council at Tampere (1999) and confirmed by the Santa Maria da Feira European Council in June 2000. Common action specifically concerned with combating trafficking in human organs and tissues is particularly necessary in view of the considerable differences in Member States' legislation on the matter, both as regards the elements constituting the relevant crimes and as regards the potential penalties. These differences are an obstacle to combating this form of organised crime within the single European area. It should be stated that Council Framework Decision 2002/629/EC on combating trafficking in human beings did not include trafficking in human organs. It is necessary to introduce penalties on perpetrators sufficiently severe to allow for trafficking in human organs and tissues to be included within the scope of instruments already adopted for the purpose of combating organised crime, such as Council Joint Action 98/699/JHA on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime and Council Joint Action 98/733/JHA on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union. Therefore, it is necessary that the serious criminal offence of trafficking in human organs and tissues be addressed not only through individual action by each Member State but by a comprehensive approach, of which the definition of the elements of the offence, common to all the Member States, and effective, proportionate and dissuasive penalties should form an integral part.?

Trafficking in human beings: prevention and control of trafficking in human organs and tissues. Framework Decision. Initiative Greece

PURPOSE : to present a Greek initiative which aims to adopt a Council Framework Decision concerning the prevention and control of trafficking in human organs and tissues. **CONTENT** : to recall, the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice, the Tampere European Council on 15 and 16 October 1999 and the Santa Maria da Feira European Council on 19 and 20 June 2000, as listed in the scoreboard, indicate or call for legislative action against trafficking in human beings, including common definitions, incriminations and sanctions. Trafficking in human organs and tissues is a form of trafficking in human beings, which comprises serious violations of fundamental human rights and, in particular, of human dignity and physical integrity. Such trafficking is an area of activity of organised criminal groups who often have recourse to inadmissible practices such as the abuse of vulnerable persons and the use of violence and threats. In addition, it gives rise to serious risks to public health and infringes on the right of citizens to equal access to health services. Finally, it undermines citizens' confidence in the legitimate transplantation system. Opposition to the sale of the human body and its parts has been addressed repeatedly by many international organisations and has been the

subject of regulation by international conventions. It is therefore necessary to introduce penalties on perpetrators sufficiently severe to allow for trafficking in human organs and tissues to be included within the scope of instruments already adopted for the purpose of combating organised crime, such as Council Joint Action 98/699/JHA of 3 December 1998 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime and Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union. The draft Framework Decision stipulates that each Member State shall take the necessary measures to ensure that the following acts are punishable: - the recruitment, transportation, transfer, harbouring or exception of a person, including any exchange or transfer of control over that person, where use is made of force or threats, including abduction, or use is made of fraudulent means, or there is an abuse of authority or of a position of vulnerability which is such that the person concerned has no real or reasonable possibility of avoiding such abuse, or payments, or benefits are given or received in order to obtain the consent of a person having control over another person with the aim of removal of an organ or tissues from the latter; - the removal of an organ from a living donor effected using force, threats or fraud; - the removal of an organ from a donor who has consented thereto further to the payment or promise of financial consideration; - the payment, offer or promise of a financial consideration, directly or via third parties, to a donor in order to obtain his consent to the removal of an organ; - the receipt of or demand for financial consideration by a donor or a third party so that the donor will agree to the removal of an organ; - the demand for, receipt, payment, offer or promise of financial consideration with the aim of offering or acquiring or, more generally, trafficking in human organs and tissues. - the purchase, possession, storage, transport, import, export or transfer of possession of human organs; - participation by medical or nursing staff in the transplantation of an organ in the knowledge that it has been the object of one of the abovementioned acts. In addition, each State shall take the necessary measures to ensure that the instigation of, aiding and abetting or attempt to commit an offence is punishable. As regards penalties, each Member State shall take the necessary measures to ensure that an offence is punishable by terms of imprisonment with a maximum penalty that is not less than 10 years where it has been committed in any of the following circumstances: - the offence has deliberately or by gross negligence endangered the life of the victim, - the offence has been committed against a minor, - the offence has caused further serious physical harm to the victim, - the offence has been committed within the framework of a criminal organisation. Each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person have rendered possible the commission of an offence referred to above for the benefit of that legal person by a person under its authority. Liability of legal persons shall not exclude the punishment of persons who are perpetrators, instigators or accessories in an offence.?

Trafficking in human beings: prevention and control of trafficking in human organs and tissues. Framework Decision. Initiative Greece

The committee adopted the report by Robert EVANS (PSE, UK) broadly approving the proposal subject to a number of amendments under the consultation procedure. It wanted the title of the Framework Decision to be changed to "illegal trafficking in human organs, parts of organs and tissues". As trafficking can imply both legal and illegal trade, it should be made clear that the proposal was concerned only with illicit trade in such materials and not with legitimate, properly-regulated trade for medical purposes (such as fertility treatment). As a logical extension to this clarification, the committee then deleted the exemptions from the original proposal, i.e. reproductive organs and tissues, embryonic organs and tissues, blood and blood derivatives, so that it would be clear that the scope of the directive extended to illegal trafficking in all circumstances, with no distinction being made between different types of organs and tissues. MEPs also tabled a series of amendments to the article defining the offences falling within the scope of the Framework Decision. Thus, "deceit or any other form of coercion", would count as an offence when used to effect the removal of organs from living donors or to recruit a person with a view to the removal of organs. The committee also wanted to ensure that donors who sell their organs are not made criminally responsible, given that in most cases such donors offer to sell as a result of persuasion or coercion by criminal networks who prey on their vulnerable situation. MEPs also added a new offence, that of "advertising, via the Internet or any other medium, the need for, or availability of, organs, parts of organs or tissues, with a view to offering or seeking financial gain or comparable advantage". However, the committee wanted to make provision for donors to receive compensation to avoid possible financial disadvantage which may otherwise occur. These payments should not be treated as financial gain or a comparable advantage. In other amendments, the committee said that special attention should be paid to ensure protection of minors and other vulnerable persons. Moreover, as illegal trafficking in organs would be undermined if more people were prepared to donate tissues, cells and organs after their death, the Commission and the Member States were urged to do more to inform public opinion on the issue of organ donation and to encourage citizens to indicate their consent or otherwise to the use of their organs in the event of death. Lastly, the committee wanted the Framework Decision to be transposed into national law by 31 December 2004. ?

Trafficking in human beings: prevention and control of trafficking in human organs and tissues. Framework Decision. Initiative Greece

The European Parliament adopted a resolution drafted by Robert EVANS (PES, United Kingdom). It made several amendments to the Commission's proposals. (Please see the summary dated 30/09/03.) The resolution was passed by 432 votes in favour and 25 abstentions. Parliament inserted a definition for "illegal trafficking," and gave examples of payments which do not constitute financial gain, such as payment of a fee for medical expenses in connection with transplant. ?