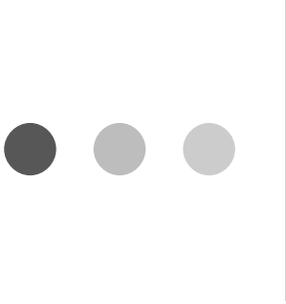


Measures against racism and xenophobia

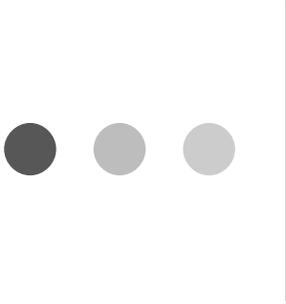
Joint Action of 15 July 1996 concerning Action to Combat Racism and Xenophobia: OJ L 185 of 24 July 1996

Commission's proposal for a Framework Decision on Combating racism and xenophobia: COM (2001) 664 final



Introduction

- The Treaty of Amsterdam introduced a new Article 13 in the EC Treaty, which gave the Community for the first time the power to take legislative action to combat discrimination.
- Article 29 of the TEU stresses the importance of preventing and combating racism and xenophobia.



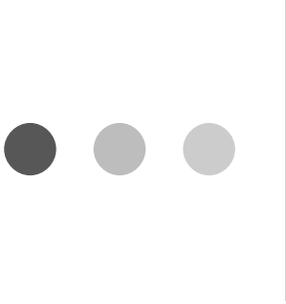
Introduction

- The Vienna Action Plan on how best to implement the provisions of the Treaty of Amsterdam in an area of freedom, security and justice refers to racism and xenophobia as one of the specific forms of crime which can be best combated by a EU approach.
- The conclusions of the European Council held in Tampere on 15 and 16 October 1999 state that the fight against racism and xenophobia has to be stepped up.



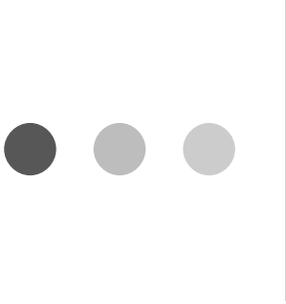
Introduction

- The Hague Programme recalls the European Council's firm commitment to oppose any form of racism, anti-Semitism and xenophobia.



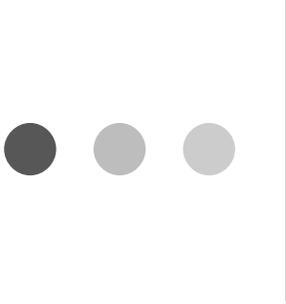
The Joint Action

- On 15 July 1996, the Council adopted a Joint Action concerning action to combat racism and xenophobia.
- Its main objective is to ensure effective legal cooperation between Member States in combating racism and xenophobia.
- The Joint Action stresses the need to prevent the perpetrators of such offences from benefiting from the fact that they are treated differently in the Member States.



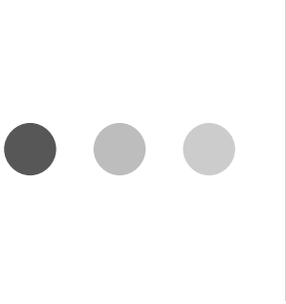
The Joint Action

- Member States are asked to ensure that a number of racist and xenophobic behaviors listed in the Joint Action be punishable as criminal offences or, failing that, and pending the adoption of any necessary provisions, to derogate from the principle of double criminality for such behaviors.
- Other provisions contained in the Joint Action referred to seizure and confiscation of racist and xenophobic material and exchange of information.



The Joint Action

- The Joint Action refers to the following racist and xenophobic behaviors:
- (a) public incitement to discrimination, violence or racial hatred in respect of a group of persons or a member of such a group defined by reference to colour, race, religion or national or ethnic origin;
- (b) public condoning, for a racist or xenophobic purpose, of crimes against humanity and human rights violations;



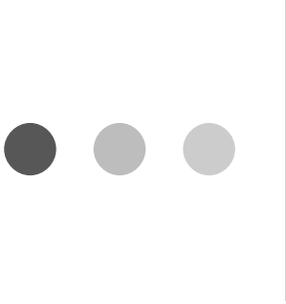
The Joint Action

- (c) public denial of war crimes and crimes against humanity insofar as it includes behaviour which is contemptuous of, or degrading to, a group of persons defined by reference to colour, race, religion or national or ethnic origin;
- (d) public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia;



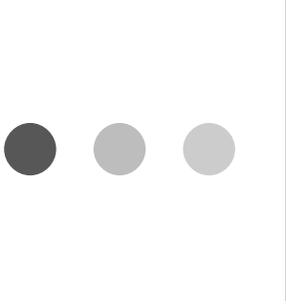
The Joint Action

- (e) participation in the activities of groups, organizations or associations, which involve discrimination, violence, or racial, ethnic or religious hatred.



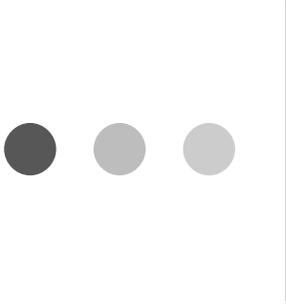
The Joint Action

- A first report on the implementation of the Joint Action of 1996 was produced in 1998.
- According to it, the Joint Action has been implemented to a very relevant degree.
- Nevertheless, the scope, content and enforcement of legislation concerning racism and xenophobia differ considerably from one Member State to the other.
- The Commission is therefore of the opinion that it is time to achieve further progress in this area and in November 2001 adopted a proposal for a Framework Decision aiming to harmonize MSs' legislation.



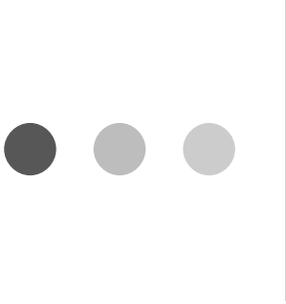
COM's proposal

- The proposed instrument defines a common EU criminal approach and provides that the same intentional racist and xenophobic conduct would be punishable in all Member States.



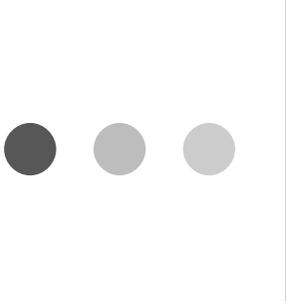
COM's proposal

- The novelty in relation to the Joint Action is that instead of the choice to incriminate these forms of conduct ***or*** to derogate from the principle of dual criminality, an obligation is imposed on Member States to take steps to punish those forms of conduct as criminal offences.



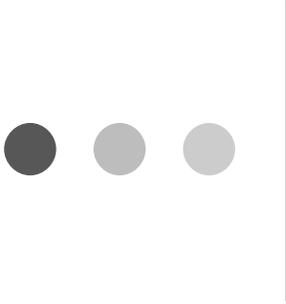
COM's proposal

- The proposed Framework Decision aims to criminalise *intentional* conduct such as incitation to **violence or hate** towards a group of people, or a person belonging to a group, defined on the basis of race, colour, descent, religion or belief, national or ethnic origin, as well as the public denial or gross trivialisation of crimes against humanity and war crimes.



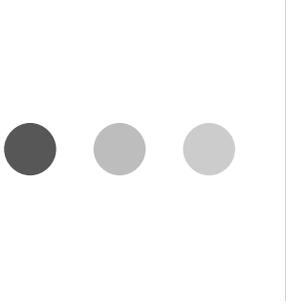
COM's proposal

- According to COM's proposal, the public dissemination or distribution of tracts, pictures or other racist or xenophobic material is to be punished as well as the directing, supporting or participating in the activities of a racist or xenophobic group.



COM's proposal

- the sanction should be increased when the perpetrator is acting in the exercise of a professional activity and the victim is depending on this activity.
- racist and xenophobic motivation should be regarded as an aggravating circumstance in the determination of the penalty.
- the proposal provides also for the liability of legal persons.



COM's proposal

- COM's proposal addresses **every form of racism** (including religiously motivated racism) without listing specific groups of people which could be victims of racist conducts. It does not directly address anti-Semitism.