

ORAL QUESTION WITH DEBATE O-0085/05/rev.2

pursuant to Rule 108 of the Rules of Procedure

by Martine Roure and Maria Berger, on behalf of the PSE Group, Kathalijne Buitenweg, on behalf of the Verts/ALE Group, Diana Wallis and Baroness Sarah Ludford, on behalf of the ALDE Group to the Commission

Subject: Imposition of criminal penalties in the event of an infringement of Community law

In its judgment of 13 September 2005 in Case C-0176/03, the Court clarified the relationship between policies under the first and third pillars and the primacy of Community law over Union law (Article 47 of the Treaty on European Union) when it also acknowledged that the Community legislature was entitled to require the Member States to impose criminal penalties, where absolutely necessary, in order to ensure that Community rules were fully effective. That would apply in particular where such rules sought to protect fundamental rights such as those relating to a safe environment, as in the case submitted to the Luxembourg Court.

1. Does the Commission agree that:

- criminal penalties may be applied only in connection with legislative procedures in which the European Parliament is involved under the codecision procedure;
- the definition of such penalties should refer in particular to Community provisions relating to fundamental rights such as the campaign against discrimination and racism, data protection, right of asylum, migration policies, etc.?

2. Does the Commission agree that, in the light of the Court's judgment, framework decisions based on Article 31 of the Treaty on European Union (third pillar) would have to be reviewed where such decisions constituted a measure which was supplementary to provisions adopted on the basis of Community law?

3. What measures is the Commission intending to take in order to verify the actual impact that criminal penalties imposed in order to ensure the implementation of Community law will have on both European citizens and the attainment of the objectives of the Union?

Tabled: 10.10.2005

Forwarded: 12.10.2005

Deadline for reply: 19.10.2005