

The European Union`s Framework Decision on the Use of Criminal Law to Combat Specific Types and Manifestations of Racism and Xenophobia and the Implementation of the Decision in the Latvian Law

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The fundamental issue that is addressed in this paper relates to so-called “memory laws,” which ban any interpretation of essential events in the history of a country and society in a way that is different from the officially accepted version. The author has looked at the necessity for such laws, as well as at the issue of how they correspond to the right to freedom of speech. The European Union’s Framework Decision on Combating Racism and Xenophobia, which was approved on November 28, 2008, is a vivid example of this issue, because it declares that member states are obliged to punish people who publicly deny, justify or grossly trivialise the Holocaust that was committed by the Nazi regime, as well as genocide, war crimes or crimes against humanity committed by other regimes. There were long debates among EU member states about the text of the decision, and this market out different priorities in the various countries. One issue was protection of human dignity in comparison to the freedom of speech. Diametrically opposed views about bans against the denial of international crimes also illustrate other factors which relate to each country’s history, political culture and traditions, and that gives reason to doubt whether a unified solution is appropriate in this regard. Member states initially proposed that the ban be applied only to the crimes of the Nazis, and that demonstrates the gap which still exists between Western and Eastern European countries when it comes to the identification and appropriate evaluation of crimes that were committed by the Communist regime.

The author has also reviewed the extent to which the ban against specific activities is in line with other international obligations such as the duty to guarantee a free exchange of views and academic freedom in relation to issues of history. The aforementioned issues will be analysed via a study of the way in which the framework decision was implemented in Latvia’s legal system, also looking at relevant amendments to Latvia’s Criminal Law and the initial practices of law enforcement institutions in applying these norms.

Keywords: European Union law, human rights, freedom of speech, bans against fomenting of hatred, implementation of EU laws in national laws.