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REPORT

on the proposal for a Council framework decision on certain procedural rights
in criminal proceedings throughout the European Union
(COM(2004)0328 – C6-0071/2004 – 2004/0113(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Kathalijne Maria Buitenweg

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union
(COM(2004)0328 – C6-0071/2004 – 2004/0113(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2004)0328)¹,
 - having regard to Article 31(1) (c) of the EU Treaty,
 - having regard to Article 39 (1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0071/2004),
 - having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Legal Affairs (A6-0064/2005),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Entire text

The words "as soon as possible" to be replaced by "without undue delay"

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

¹ Not yet published in OJ.

Amendment 2
Recital 5 a (new)

(5a) The rights laid down in the ECHR should be regarded as minimum standards with which Member States should in any event comply, just as they should comply with the case-law of the European Court on Human Rights.

Amendment 3
Recital 7

(7) The principle of mutual recognition is based on a high level of confidence between Member States. In order to enhance this confidence, this Framework Decision provides certain safeguards to protect fundamental rights. These safeguards reflect the traditions of the Member States in following the provisions of the ECHR.

(7) The principle of mutual recognition is based on a high level of confidence between Member States. In order to enhance this confidence, this Framework Decision provides certain safeguards to protect fundamental rights. These safeguards reflect the traditions of the Member States in following the provisions of the ECHR ***and of the Charter of Fundamental Rights of the European Union.***

Amendment 4
Recital 8

(8) The proposed provisions are not intended to affect specific measures in force in national legislations in the context of the fight against certain serious and complex forms of crime in particular terrorism.

(8) Provided that they do not alter the essential substance of the provisions laid down in this Framework Decision and are in line with the ECHR and the Charter of Fundamental Rights of the European Union, Member States may adapt those provisions to the specific circumstances of the fight against certain serious and complex forms of crime, in particular terrorism ***and organised crime.***

Amendment 5
Recital 10

(10) Five areas have been identified as appropriate ones in which common standards may be applied in the first instance. These are: access to legal representation, access to interpretation and translation, ensuring that persons in need of specific attention because they are unable to follow the proceedings receive it, consular assistance to foreign detainees and notifying suspects and defendants of their rights in writing.

(10) *In order to promote mutual trust between Member States, safeguards should be put in place to protect the fundamental rights not only of suspected persons, but also of victims of crime and witnesses to crime. However, the focus of this Framework Decision is the safeguarding of the rights of suspected persons.* Five areas have been identified as appropriate ones in which common standards may be applied in the first instance. These are: access to legal representation, access to interpretation and translation, ensuring that persons in need of specific attention because they are unable to follow the proceedings receive it, consular assistance to foreign detainees and notifying suspects and defendants of their rights in writing.

Amendment 6
Recital 10 a (new)

(10a) This Framework Decision should be evaluated within two years after its entry into force in the light of the experience gained. If appropriate, it should be amended so as to improve the safeguards laid down.

Amendment 7
Recital 15

(15) The right for detained persons to have family, persons assimilated to family members and employers informed promptly of the detention is laid down where the proceedings are not jeopardised by such information being passed. The right to have any relevant consular authorities contacted is also laid down. The broader context is that of the detained person's right to have access to the outside world.

(Does not affect the English version.)

Justification

(Employers must not be automatically informed of the detention, so that there is no risk of discrimination and loss of employment for the person held in custody.)

Amendment 8

Recital 16

(16) The right to consular assistance exists by virtue of Article 36 of the 1963 Vienna Convention on Consular Relations where it is a right conferred on States to have access to their nationals. The provisions of this Framework Decision confer the right on the European citizen rather than the State. They enhance its visibility and therefore its effectiveness. ***That said, in the longer term, the creation of an area of freedom, security and justice in which trust is reciprocated between Member States should reduce and ultimately abolish the need for consular assistance.***

(16) The right to consular assistance exists by virtue of Article 36 of the 1963 Vienna Convention on Consular Relations where it is a right conferred on States to have access to their nationals. The provisions of this Framework Decision confer the right on the European citizen rather than the State. They enhance its visibility and therefore its effectiveness.

Amendment 9

Recital 17

(17) Notifying suspects and defendants of their basic rights in writing is a measure that improves fairness in proceedings, and goes some way to ensuring that everyone suspected of, or charged with, a criminal offence is aware of their rights. If suspects and defendants are unaware of them, it is more difficult for them to insist upon having the benefit of those rights. Giving suspects written notification of their rights, by way of a simple "Letter of Rights", will remedy this problem.

(17) Notifying suspects and defendants of their basic rights in writing is a measure that improves fairness in proceedings, and goes some way to ensuring that everyone suspected of, or charged with, a criminal offence is aware of their rights. If suspects and defendants are unaware of them, it is more difficult for them to insist upon having the benefit of those rights. Giving suspects written notification of their rights, by way of a simple "Letter of Rights", will remedy this problem. ***Suspected persons with a visual handicap or reading disabilities must be notified orally of their basic rights.***

Amendment 10

Recital 18

(18) It is necessary to establish a mechanism to assess the effectiveness of this Framework Decision. Member States

(18) It is necessary to establish a mechanism to assess the effectiveness of this Framework Decision. Member States

should therefore gather and record information for the purpose of evaluation and monitoring. The information gathered will be used by the Commission to produce reports that will be made publicly available. This will enhance mutual trust since each Member State will know that other Member States are complying with fair trial rights.

should therefore gather and record information, ***including information from NGOs, intergovernmental organisations and the professional bodies of lawyers, interpreters and translators***, for the purpose of evaluation and monitoring. The information gathered will be used by the Commission to produce reports that will be made publicly available. This will enhance mutual trust since each Member State will know that other Member States are complying with fair trial rights.

Amendment 11
Article 1, paragraph 1, subparagraph 2

Such proceedings are referred to hereafter as “criminal proceedings”.

deleted

Amendment 12
Article 1, paragraph 2

2. The rights will apply to any person suspected of having committed a criminal offence (“a suspected person”) from the time when he is ***informed*** by the competent authorities of a Member State ***that he is suspected of having committed a criminal offence until finally judged.***

2. The rights will apply to any person suspected of having committed a criminal offence (“a suspected person”) ***or, where the suspected person is a legal person, to the legal person's representative***, from the time when he is ***approached*** by the competent authorities of a Member State until ***final judgment, including sentencing and the resolution of any appeal.***

Amendment 13
Article 1 a (new)

Article 1a

Definitions

For the purposes of this Framework Decision, the following definitions shall

apply:

(a) "legal advice" means:

- the assistance provided by a lawyer to a suspected person before and during any police questioning in relation to the offence of which that person is suspected;

- the assistance provided to, and the representation of, a suspected person by a lawyer throughout criminal proceedings;

(b) "criminal proceedings" means:

(i) proceedings for establishing the guilt or innocence of a suspected person or for sentencing that person;

(ii) an appeal from proceedings as referred to in point (i), or

(iii) proceedings brought by administrative authorities in respect of acts which are punishable under the law of a Member State, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters;

(c) 'persons assimilated to family members' means:

- persons who, under the law of a Member State, live in a registered or otherwise legalised same-sex partnership with the suspected person,

- persons who cohabit permanently with the suspected person in a non-marital relationship.

Justification

Defining the concept is conducive to harmonisation, since this is the only way to ensure that an identical approach is taken in all the Member States.

Amendment 14
Article 1 b (new)

Article 1b

Right of defence

Before they make statements or as soon as measures which restrict their freedom are applied before they have made statements,

individuals shall be entitled to be informed by the authorities of the charges laid against them and of the grounds for suspicion.

Justification

This will ensure that suspects are aware of the nature of the suspicion which has fallen upon them and that they are able to prepare their defence in a suitable fashion.

Amendment 15 Article 2)

1. A suspected person ***has*** the right to legal advice ***as soon as possible and throughout the criminal proceedings if he wishes to receive it.***

2. A suspected person ***has*** the right to receive legal advice before ***answering questions in relation to the charge.***

1. A suspected person ***shall have*** the right to legal advice ***without undue delay (within 24 hours at most after arrest).***

2. A suspected person ***shall have*** the right to receive legal advice ***in all cases before any questioning takes place, at any stage and level of the criminal proceedings and during any kind of questioning.***

Amendment 16 Article 2, paragraph 2 a (new)

2a. Suspected persons shall have the right to:

- consult their lawyer in private (even if they are required for security reasons to be kept in police custody), with their conversation with the lawyer to remain entirely confidential;***
- have access to all material relating to the criminal proceedings, including through the intermediary of their lawyer;***
- ensure that their lawyer is informed regarding the progress of the criminal proceedings and that he is present during***

***the questioning;
- ensure that their lawyer is present and
that he puts questions to the court, either
during the pre-trial stage or during the trial
itself.***

Justification

This amendment follows on from Amendment 20 (which was tabled by the rapporteur), but it should be emphasised that the rights laid down in the above paragraph are ones enjoyed at first hand by suspected persons; they do not stem from any professional prerogatives inherent in the performance of a lawyer's duties. The amendment also serves to ensure that the relationship between a suspected person and his lawyer is a confidential one, since confidentiality is essential if suspected persons are to enjoy all the rights of a defendant, including the right to silence.

Amendment 17
Article 2, paragraph 2 b (new)

***2b. Failure to respect the right to legal
advice shall invalidate all subsequent acts
and those dependent on them throughout
the criminal proceedings.***

Justification

Infringement of the fundamental right to defence should be sanctioned by the invalidation of all acts carried out in the absence of the suspect's defence counsel.

Amendment 18
Article 2, paragraph 2 c (new)

***2c. Member States shall ensure that the
lawyer has access to the entire case-file a
reasonable period of time in advance, in
order to be able to prepare the defence.***

Justification

The purpose of this amendment is to ensure that suspected persons are properly defended by giving the lawyer a reasonable length of time in advance for the purpose of studying the case-file.

Amendment 19
Article 3, introductory part

Notwithstanding the right of a suspected person to refuse legal advice or to represent himself in any proceedings, it is required that **certain** suspected persons be offered legal advice so as to safeguard fairness of proceedings. Accordingly, Member States shall ensure that legal advice is available to any suspected person who:

Notwithstanding the right of a suspected person to refuse legal advice or to represent himself in any proceedings, it is required that suspected persons be offered legal advice so as to safeguard fairness of proceedings. Accordingly, Member States shall ensure that legal advice is available to any suspected person, **and notably to anyone** who:

Justification

The amendment aims to make clear that the right to legal advice - and the corresponding obligation for Member States to provide legal advice - is valid for all suspected persons and not only the specific categories of persons listed.

Amendment 20
Article 3, indent 2

– is formally accused of having committed a criminal offence which involves a complex factual or legal situation or which is subject to severe punishment, in particular where in a Member State, there is a mandatory sentence of **more than one year's** imprisonment for the offence, or

– is formally accused of having committed a criminal offence which involves a complex factual or legal situation or which is subject to severe punishment, in particular where in a Member State, there is a mandatory sentence of imprisonment for the offence, or

Justification

Prison sentence without further qualification is a good enough reason for guaranteeing legal advice.

Amendment 21
Article 3, indent 5

– appears not **to** be able to understand or follow the content or the meaning of the proceedings owing to his age, mental, physical or emotional condition.

– **is likely or** appears **to** not be able to understand or follow the content or the meaning of the proceedings owing to his age, mental, physical or emotional condition.

Amendment 22
Article 3, indent 5 a (new)

- is detained for the purpose of making a statement in criminal proceedings.

Justification

The failure of a suspected person to report voluntarily for the purpose of making a statement (even when he has previously been called upon to do so) is likely to make him psychologically vulnerable.

Amendment 23
Article 4, paragraph 1

1. Member States shall ensure that **only** lawyers as described in Article 1 (2) (a) of Directive 98/5/EC are entitled to give legal advice in accordance with this Framework Decision.

1. Member States shall ensure that lawyers as described in Article 1 (2) (a) of Directive 98/5/EC **or other persons duly qualified in accordance with applicable national provisions** are entitled to give legal advice in accordance with this Framework Decision.

Justification

Alternative procedures applied in Member States have to be taken into account.

Amendment 24
Article 4, paragraph 2

2. Member States shall ensure that **a mechanism exists to provide a replacement lawyer if the legal advice given is found not to be effective.**

2. Member States shall ensure that **an independent body is charged with hearing complaints about the effectiveness of a defence lawyer. If appropriate, that body may provide a replacement lawyer.**

Justification

To assure the independence of the body charged with judging the effectiveness of the defence lawyer, it would be better to avoid its being composed only of lawyers.

Amendment 25
Article 4, paragraph 2 a (new)

2a. The procedural time limits laid down in this framework decision shall not start to run until the lawyer has been notified - irrespective of whether the suspected person was notified on an earlier date.

Justification

The purpose of this wording is to ensure that suspected persons do not suffer through ignorance of substantive or procedural criminal law.

Amendment 26
Article 5, paragraph 1

1. ***Where Article 3 applies***, the costs of legal advice shall be borne in whole or in part by the Member ***States*** if these costs would cause undue financial hardship to the suspected person or his dependents.

1. ***Member States shall ensure that free legal advice and the legal costs themselves (be they fees or expenses) are provided to suspected persons or that*** the costs of legal advice shall be borne in whole or in part by the Member ***State in which the criminal proceedings take place***, if these costs would cause undue financial hardship to the suspected person or his dependents, ***or to the persons responsible for supporting him financially.***

Amendment 27
Article 6, paragraph 1

1. Member States shall ensure that ***a suspected person who does not understand the language of the proceedings is provided with free interpretation in order to safeguard the fairness of the proceedings.***

1. Member States shall ensure that ***if a suspected person does not speak or understand the language in which the proceedings are being conducted, he shall be assisted free of charge by an interpreter at each stage of the proceedings and also (if he so requests) when consulting his lawyer.***

Justification

Whether or not to have an interpreter present during discussions with the advocate is a decision to be taken solely by the defendant, who may wish to prevent a third party who is not bound by professional secrecy from hearing what the defendant imparts to his advocate.

Amendment 28
Article 6, paragraph 2

2. Member States shall ensure that, where ***necessary***, a suspected person ***receives free interpretation of legal advice received throughout the criminal proceedings.***

2. Member States shall ensure that, where a suspected person ***does not understand or speak the language of the proceedings, an interpreter is present:***

- at all meetings between the suspected person and his lawyer, if the lawyer or the suspected person considers it necessary;
- whenever the suspected person is questioned by law enforcement officers concerning the offence of which he is suspected;
- whenever the suspected person is required to appear in court in connection with the offence.

Amendment 29
Article 6, paragraph 3 a (new)

3a. Interpreters certified by the competent judicial authorities shall be listed in a national register of interpreters.

Justification

Setting up a national interpreters' register will ensure that interpreters have the linguistic competence and knowledge of legal terminology needed to provide the suspected person and his/her lawyer with a competent translation.

Amendment 30
Article 7, paragraph 1

1. Member States shall ensure that a suspected person who does not understand the language of the proceedings is provided with free translations of all relevant documents in order to safeguard the fairness of the proceedings.

1. Member States shall ensure that a suspected person who does not understand ***or read*** the language of the proceedings ***or the language in which relevant documents are drafted where they are not in the language of the proceedings*** is provided with free translations of all relevant documents ***in any of the official languages of the European Union or in another language that the suspected person understands, as appropriate,*** in order to safeguard the fairness of the proceedings.

Amendment 31
Article 7, paragraph 2

2. The decision regarding which documents need to be translated shall be taken by the competent authorities. The suspected person's lawyer may ask for translation of further documents. deleted

Justification

It can be left to national legislators to decide who may order or request translations. In addition, the proposed wording implies that in future European law will exclude the possibility of the suspected person themselves requesting a translation. They would always have to make use of legal assistance. This would, however, be at odds with their right to forego legal assistance.

Amendment 32
Article 8, paragraph 1

1. Member States shall ensure that ***the*** translators and interpreters ***employed are sufficiently qualified to provide accurate translation and interpretation.***

1. Member States shall ensure that ***a national register of sworn*** translators and interpreters ***accessible to professional linguists in all the Member States with an equivalent level of qualification throughout the Union is established. Those listed on the register shall be obliged to respect a national or Community code of conduct designed to ensure the impartial and faithful exercise of translation and interpretation work.***

Justification

The creation of a special national register of translators and interpreters is designed to ensure a minimum and uniform level of professional qualification throughout the territory of the Union.

Furthermore, it will make it possible to oblige those listed on the register to comply with ethical rules of conduct.

Amendment 33
Article 9

Member States shall ensure that, where proceedings are conducted through an interpreter, an audio or video recording is made in order to ensure quality control. A transcript of the recording shall be provided to any party in the event of a dispute. ***The transcript may only be used for the purposes of verifying the accuracy of the interpretation.***

Member States shall ensure that, where proceedings are conducted through an interpreter, an audio or video recording is made in order to ensure quality control. A transcript of the recording shall be provided to any party in the event of a dispute.

Or. pt

Justification

The purpose of this amendment is to make it clear that the transcription may be used when it can be shown to be trustworthy.

Amendment 34
Article 10, paragraph 1

1. Member States shall ensure that a suspected person who cannot understand or follow the content or the meaning of the proceedings owing to his age, ***mental, physical or*** emotional condition is given specific attention in order to safeguard the fairness of the proceedings.

1. Member States shall ensure that a suspected person who cannot understand or follow the content or the meaning of the proceedings owing to his age, ***state of health, physical or mental disability, illiteracy or particular*** emotional condition is given specific attention in order to safeguard the fairness of the proceedings.

Justification

The categories of particularly vulnerable subjects need to be defined more precisely .

Amendment 35
Article 10, paragraph 3 a (new)

3a. Failure to assess and notify the vulnerability of the suspected person shall, if not remedied, invalidate any subsequent action taken in the criminal proceedings.

Justification

Failure to respect the particular protection needs of the categories defined as vulnerable should invalidate all subsequent procedural acts, so that the competent authorities are made aware of the need to gather all relevant information if they are to continue with the proceedings.

Amendment 36
Article 11, paragraph 2

2. Member States shall ensure that medical assistance is provided whenever necessary.

2. Member States shall ensure that medical ***and psychological*** assistance is provided whenever necessary, ***and if the suspected person or his lawyer considers this necessary.***

Amendment 37
Article 11, paragraph 3

3. ***Where appropriate***, specific attention ***may include*** the right to ***have*** a third person present during any questioning by police or judicial authorities.

3. ***A suspected person entitled to*** specific attention ***or his lawyer shall have*** the right to ***request*** a third person ***to be*** present during any questioning by police or judicial authorities.

Amendment 38
Article 12, paragraph 1

1. A suspected person remanded in custody ***has*** the right have his family, persons assimilated to his family ***or his place of employment*** informed of the detention ***as soon as possible.***

1. A suspected person remanded in custody ***or transferred to another place of custody shall have*** the right ***to*** have his family ***or*** persons assimilated to his family informed of the detention ***without undue delay.***

Or. en

Justification

The use of 'undue' avoids being overly descriptive.

If the person's place of employment is automatically informed by the detaining authorities at such an early stage of the legal proceedings, this could lead to discrimination against the

suspected person or loss of their employment. However, the person should have the option of requesting specifically that his/her employer be informed (Article 12, paragraph 1 a (new)).

Amendment 39
Article 12, paragraph 1 a (new)

1a. A suspected person who is remanded in custody shall have the right to have his place of employment informed of the detention without undue delay.

Justification

It should be possible for the place of work to be informed at the specific request of the person concerned.

Amendment 40
Article 13, paragraph 2

2. Member States shall ensure that, if a detained suspected person does not wish to have assistance from the consular authorities of his home State, the assistance of a recognised international humanitarian organisation is offered as an alternative.

2. Member States shall ensure that, if a detained suspected person does not wish to have assistance from the consular authorities of his home State, the assistance of a recognised international humanitarian organisation is offered ***without undue delay*** as an alternative.

Justification

In order to make the rights of the person concerned as effective as possible, a time frame must also be laid down for access to international humanitarian organisations.

Amendment 41
Article 14, paragraph 1

1. Member States shall ensure that all suspected persons are made aware of the procedural rights that are immediately relevant to them by written notification of them. This information shall include, but not be limited to, the rights set out in this Framework Decision.

1. Member States shall ensure that all suspected persons are made aware of the procedural rights that are immediately relevant to them by written notification of them. This information shall include, but not be limited to, the rights set out in this Framework Decision. ***The written notification - the Letter of Rights - shall be presented before to the suspected person***

when he is first questioned, whether in the police station or elsewhere.

Amendment 42

Article 14, paragraph 1, subparagraph 1 a (new)

Member States shall ensure that the Letter of Rights is made accessible on line for ease of access. Member States shall ensure that, where a suspected person has a visual handicap or reading disabilities, the Letter of Rights is read to that person.

Justification

Access to information via the internet allows individuals to be aware of their rights.

Amendment 43

Article 14, paragraph 2

2. Member States shall ensure that a standard translation exists of the written notification into all the official Community languages. The translations should be drawn up centrally and issued to the competent authorities so as to ensure that the same text is used throughout the Member **State**.

2. Member States shall ensure that a standard translation exists of the written notification into all the official Community languages. The translations should be drawn up centrally and issued to the competent authorities so as to ensure that the same text is used throughout the Member **States**.

Amendment 44

Article 14, paragraph 3 a (new)

3a. The Member States shall determine into which other languages the Letter of Rights should be translated, bearing in mind the languages most commonly used on the territory of the Union as a result of third-country citizens immigrating into or residing in the Union. Paragraphs 2 and 3 shall apply.

Justification

In various Member States there are a number of communities who speak a foreign language.

In order to guarantee the right of defence for third-country nationals who do not understand any of the Union's official languages, the Letter of Rights needs to be translated into other languages proposed by the Member States, such as other European and non-European languages, e.g. Russian, Turkish, Arabic and Chinese.

Amendment 45
Article 14, paragraph 4

4. Member States shall require that both the law enforcement officer and the suspect, if he is willing, sign the Letter of Rights, as evidence that it has been offered, given and accepted. The Letter of Rights should be produced in duplicate, with one (signed) copy being retained by the law enforcement officer and one (signed) copy being retained by the suspect. A note should be made in the record stating that the Letter of Rights was offered, and whether or not the suspect agreed to sign it.

4. The investigating authority shall draw up a statement to the effect that the Letter of Rights has been issued to the suspected person. The statement shall indicate the time at which the Letter was issued and, possibly, the persons present.

Justification

The need for the suspected person to provide a signature would appear to be an unnecessary addition to the requirements. Should the law-enforcement officer fail to issue the Letter of Rights he would lay himself open to the normal disciplinary or criminal penalties which apply in cases where an officer fails to carry out his duties.

Amendment 46
Article 14 a (new)

Article 14a

Prohibition of discrimination

Member States shall take preventive measures to ensure that all suspected persons, irrespective of their racial or ethnic background, or sexual orientation, receive equal access to legal assistance and equal treatment at each and every stage of the criminal proceedings listed in Articles 2 to 14.

Justification

In accordance with the European Convention on Human Rights (Articles 6, 'Right to a fair trial' and 14 'Prohibition of discrimination') and the Race Directive (Article 2a).

Amendment 47

Article 15, paragraph 1

1. Member States shall **facilitate the collection of** the information necessary for evaluation and monitoring of this Framework Decision.

1. **Every year**, Member States shall **gather, including from NGOs, intergovernmental organisations and the professional bodies of lawyers, interpreters and translators, and forward to the Commission** the information necessary for evaluation and monitoring of this Framework Decision.

Amendment 48

Article 15, paragraph 2

2. Evaluation and monitoring shall be carried out under the supervision of the **European** Commission which shall co-ordinate reports on the evaluation and monitoring exercise. Such reports **may** be published.

2. Evaluation and monitoring shall be carried out **yearly** under the supervision of the Commission which shall co-ordinate reports on the evaluation and monitoring exercise. Such reports **shall** be published.

Amendment 49

Article 16, paragraph 1, introductory part

1. **In order that evaluation and monitoring of the provisions of this Framework Decision may be carried out**, Member States shall ensure that **data such as relevant statistics are** kept and made available, **inter alia, as regards the following**:

1. Member States shall **take the necessary measures to ensure that, by 31 March each year, the following information in respect of the preceding calendar year is** kept and made available:

Amendment 50

Article 16, paragraph 2

2. **Evaluation and monitoring shall be carried out at regular intervals, by analysis of the data provided for that**

deleted

*purpose and collected by the Member
States in accordance with the provisions
of this article.*

EXPLANATORY STATEMENT

Introduction

By letter of 11 June 2004 the European Parliament was consulted on the proposal for a Council Framework Decision on procedural safeguards for suspects and defendants in criminal proceedings throughout the European Union. At an earlier stage the European Parliament adopted a recommendation on the Green Paper¹ with the same topic². The main elements the European Parliament recalled in this recommendation were:

- The importance for Member States of increasing confidence and faith in each other's legal system
- a demand to the Commission to include a provision guaranteeing non-regression in order to encourage Member States to apply higher national standards.
- that legal assistance should be available (and should be free of charge if the suspect or defendant have insufficient means to pay for it) from the moment they are charged with an offence.
- that a defence lawyer should be present each time the suspect or defendant is questioned.
- that all documents which the suspect needs to understand the purpose of a trial should be translated. All professional practitioners involved in criminal proceedings should receive training in working with and through an interpreter.
- that attention should be drawn to the vulnerability of all suspects and defendants from the point of arrest and their initial questioning.
- the Letter of Rights should be readily comprehensible and written in a language that the suspect can understand.

This Framework Decision is the next step in the procedure and is much welcomed by the rapporteur. The rapporteur however, calls upon the Commission to present within short time (preferably in 2005) also other proposals that were mentioned in the Green Paper, such as mutual recognition of non-custodial pre-trial supervision measures, ne bis in idem in absentia, the need for safeguarding relating to fairness in obtaining, handling and use of evidence handling of evidence throughout the EU, the rights stemming from the presumption of innocence and so on. The current proposal can only be seen as a first step towards a more uniform system of protection of defence rights in the EU.

Legal base

¹ Green Paper on Procedural Safeguards for Suspects and Defendants in Criminal Proceedings, COM(2003) 75 .
² A-5-0361/2003.

The Framework Decision, based on Article 31, paragraph 1, point c of the TEU, defines common minimum standards on basic *common* procedural safeguards for suspects and defendants in criminal proceedings throughout the European Union. This will facilitate the operation of mutual recognition as set out in the Tampere European Council Conclusions¹. Article 31, paragraph 1, point c of the TEU foresees the possibility of common action on judicial co-operation ensuring (the) compatibility in rules applicable in the Member States, as may be necessary to improve such co-operation. The rapporteur fully supports the legal basis chosen by the Commission. Establishing common basic principles contributes to Member States' faith in each other's legal system and a Framework Decision seems to be a proper instrument to attain that goal.

Mutual Recognition

Mutual recognition implies that a Member State accepts decisions taken by another Member State even though these decisions may have been reached in a different way. The first instrument to have been adopted on mutual recognition in criminal matters is the European Arrest Warrant. This has been followed by a Framework Decision on orders for freezing property or evidence, and will be followed by measures on confiscation orders, financial penalties and transmission of evidence and criminal records. If these measures, and indeed future proposals on mutual recognition, are to be implemented successfully a spirit of confidence is needed. Not only the judicial authorities, but all actors in criminal proceedings have to consider decisions of the judicial authorities of another Member State as equivalent to their own decisions. Judicial capacity and respect for fair trial rights should not be called into question. This is the reason that the Tampere Conclusions included several proposals for minimum standards for procedural law, such as "an adequate level of legal aid in cross-border cases", and "multilingual forms or documents to be used in cross-border court cases".

The rapporteur has always been of the opinion that the European Arrest Warrant should have been accompanied by minimum standards of procedural law from the outset, but is pleased that three years after date, this proposal is taken up by the European Commission. If prosecution is organised on a European scale, then so should citizen's rights.

Obviously, the right to legal advice and the right to interpretation/translation are rights that already exist in the European Convention on the protection of Human Rights and fundamental freedoms (ECHR), as guaranteed by the European Court of Human Rights (ECtHR). But how valuable the ECHR may be there are quite some differences in interpretation of these rights by the Member States. The current proposal of the European Commission is more specific. Common procedural safeguards will not only increase trust in each other's legal systems but will make judicial co-operation between Member States more efficient. Citizens (especially criminal suspects) will know where they stand (these minimum standards should apply to all activities of the national police forces and judicial authorities, Europol, joint investigating teams and officials from non-EU countries operating on EU territory).

The European Convention on Human Rights and the European Court on Human Rights

It is clear that the Framework Decision will also make citizen's rights more *visible*. This

¹ 15 and 16 October 1999.

should mean that police officers, lawyers, translators, suspects and defendants are more aware of those rights and are more likely to comply with those European standards. It will make these rights also more *accessible*. Currently many violations of fundamental rights are not brought for the Strasbourg court, simply because people are not aware of the legal possibility. Another reason that violations are not brought to the European Court on Human Rights (ECtHR) is that the procedure is complicated and cumbersome because all national remedies must have been exhausted. This may take years of proceedings before a complaint can be filed to the ECtHR.

The proposal on the minimum standards in criminal proceedings has the important advantage that the workload of the ECtHR will be reduced. Without additional measures the ECtHR might no longer be capable to guarantee the rights of all citizen's rights that apply to it. According to information of the Evaluation Group to the Committee of Ministers on the European Court of Human Rights the European Court on Human Rights is seriously overloaded and the ability to respond is 'in danger'.¹ Between 1989 and 2003 the number of applications to the ECHR increased with more than 500%. In 1989 there were 4923 applications of which 95 were declared admissible. In 2003, there were 38 435 applications of which 753 were declared admissible. In 2003, the number of judgements that show findings of violations of the ECHR was 385 (which is more than 50%!!!). The proposal for a Framework Decision on minimum standards will serve to complement the ECHR and will provide added clarity as to individuals during criminal proceedings.

The Charter of Fundamental Rights of the European Union

In December 2000, the Commission, the Council and the Parliament jointly signed and solemnly proclaimed the Charter of Fundamental Rights of the European Union. The Charter among other things confirms that respect for fundamental rights will be at the foundation of all European law. Section VI, entitled 'Justice' lays down the right to a fair trial (Art. 47), and demands respect for the rights of the defence of anyone who has been charged with a criminal offence (Art. 48). This proposal is in line with the spirit of the Charter on Fundamental Rights and contributes to more equivalent norms in criminal proceedings in the Member States.

The Hague Programme

The Hague Programme was adopted by the European Council on 4 and 5 November 2004. The Programme stresses that in an enlarged EU, mutual confidence shall be based on the certainty that all European citizens have access to a judicial system meeting high standards of quality.² In order to facilitate full implementation of the principle of mutual recognition, a system providing for objective and impartial evaluation of the implementation of EU policies in the field of Justice, while fully respecting independence of the judiciary and consistent with all existing European mechanism, must be established. Mutual recognition is still seen as the cornerstone of judicial co-operation. The rapporteur, however, is concerned that it seems to take up a somewhat less prominent place than in the former Tampere Programme. The further realisation of mutual recognition implies the development of equivalent standards for procedural rights in criminal proceedings. The rapporteur is pleased to see that the objective is

¹ Report of the Evaluation Group to the Committee of Ministers on the European Court of Human Rights (EG (2001))1 of 27 September 2001.

² par.3.2.

to adopt the current proposal for the Framework Decision on certain procedural rights in criminal proceedings by the end of 2005.¹

The Proposal, some elements

The Proposal contains the following rights:

- access to legal advice (Articles 2-5). Legal advice should be available throughout all criminal proceedings ('... in any event before any questioning by law enforcement officers'...²
- access to interpretation and translation (Articles 6-9) The suspect is provided with free interpretation and shall receive the translation of all relevant documents.
- special provisions ensuring that vulnerable suspects and defendants in particular are properly protected (Articles 10 and 11) If a suspect is not able to understand the content of the meaning of the proceedings owing to his age, mental, physical or emotional condition specific attention should be given.
- consular assistance to foreign detainees
- notifying suspects and defendants of their rights³. The proposal introduces the 'Letter of Rights'.

Opinion and suggestions of the Rapporteur

Overall the Rapporteur is pleased with this first step taken by the Commission but at the same time she feels a lot of work still needs to be done. As a general remark she wants to stress the importance to interpret the EU minimum standards in the light of the evolving jurisprudence of the European Court of Human Rights in order to ensure that those standards do not quickly become obsolete or undermine the level of rights protection afforded by ECHR.

She wants to propose the following suggestions:

1. In order to reduce the risk of possible confusion and differences in interpretation between Member States the rapporteur proposes to include in the proposal a definitions-section of the most important terms used, as is common practice in EU-proposals, i.e. what is meant with 'suspect', 'defendant', 'criminal proceedings', 'specific attention', 'lawyer', 'host state'.
2. She also proposes some amendments which intend to clarify certain provisions, i.e. 'as soon as possible' which is not sufficiently precise (Article 2, paragraph 1)
3. Furthermore one should assess whether it is not appropriate to enlarge the number of rights presented in the proposal, i.e. with the right of access to medical assistance

¹ par.3.3.

² Article 3, paragraph 2.

³ p.6 of the proposal for a framework decision.

4. It seems to be important to make clear provisions on the question from which moment onwards the suspect is entitled to certain rights, i.e. the right to legal assistance, communication and free interpretation. These should be provided from the moment the suspect comes into contact with the competent authorities of a Member State.

5. The Rapporteur considers the 'Letter of Rights' as an important instrument to create more visible rights. This will be an appropriate tool in having a better compliance of these rights. Member States are required to produce a written notification of the procedural rights in a language which the suspect understands. She therefore feels that provision should be made for translations into languages third countries.

6. The rapporteur strongly supports the evaluation and monitoring mechanisms laid down in the proposal (Article 15). They are extremely important mechanism to measure the effectiveness of the Framework Decision. Not only should information be gathered, it should also be duly evaluated and made public. Or to put it even stronger Member States should be made accountable when failing in safeguarding procedural rights. A regular (yearly) monitoring system under the co-ordination of the Commission should be established. In collecting these data and analysing them the future Agency on Fundamental Rights may be able to play an important role¹ The rapporteur stresses the importance that these data are not only handed over by Governments but also by non-state actors such as NGOs, IGO's, lawyer organisations, translators and interpreters.

Another reason why this monitoring mechanism is very important is because currently the Commission is not able to bring an action before the Court if a Member State fails to fulfil an obligation (i.e. to implement a Framework Decision in time) under the Third Pillar. This is a big difference with the competence of the Commission under the First Pillar where she may bring a matter before the Court of Justice when a Member State failed to fulfil an obligation under the Treaty².

¹ COM(2004)0693.

² Art. 226 TEC.

3.2.2005

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union
(COM(2004)0328 – C6-0071/2004 – 2004/0113(CNS))

Draftsman: Giuseppe Gargani

SHORT JUSTIFICATION

The proposal for a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union should be considered as positive overall, since it represents the Union's first significant step towards creating an area of freedom, security and justice, based on safeguarding the fundamental rights relating to citizens' freedoms and ensuring everyone the right to a fair trial.

The move to create a system of procedural guarantees in criminal cases aims to ensure that every Member State adopts basic minimum rules essential for increasing the trust of the public authorities, the judicial authorities and suspects in the various legal systems of the other Member States, by making provisions on procedural guarantees more uniform.

However, the proposal should be considered as a point of departure rather than of arrival in the creation of a European judicial area, which should not merely safeguard and maintain the existing rights recognised by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the case-law of the European Court of Human Rights and the Charter of Fundamental Rights of the European Union, but should also and above all be aimed at ensuring that they are applied properly and consistently by all the Member States.

Despite the efforts made to recognise and guarantee the right to a fair trial, it has to be said that the catalogue of minimum guarantees to be safeguarded drawn up by the Commission is incomplete.

In fact, the proposal identifies only five elements to be safeguarded: the right to advice and representation, the right to interpretation/translation, the protection of vulnerable suspects, consular assistance and the Letter of Rights, leaving all other elements to be dealt with in future initiatives.

Furthermore, despite the commitment made by the Commission, the protection actually envisaged seems insufficient and it would therefore be appropriate to reinforce a number of points in the framework decision:

(a) there should be recognition of fully guaranteed legal advice, to be considered as compulsory and essential at every stage and level of proceedings. This is the only way of providing effective protection for the right of defence, which is of particular importance in criminal cases and requires specific professional competences. Legal advice should of course be free of charge for those without financial means.

(b) it is necessary to define with greater precision at what point in time the suspect may benefit from the right of defence in order to prevent any kind of abuse which might easily occur in a system without sufficiently clear time limits.

Suspects should be able to benefit from legal advice from the first moment of contact with the investigating authorities, and in any event before being questioned, otherwise all subsequent procedural should be invalidated.

(c) the right to interpretation and translation services free of charge should be enhanced for the whole duration of the proceedings and from first moment of contact with the investigating authorities, for any suspects who are unable to understand the language of the proceedings. In order to guarantee the quality of the service provided in the interests of justice, it would be appropriate to oblige every Member State to draw up a register of sworn translators and interpreters, who would be have to comply with a national or Community code of conduct, in order to ensure their impartiality and accuracy of translation.

The aim is thus to ensure an equivalent level of qualification throughout the Union for those specialised in legal matters, in order to ensure that they understand the legal procedures and technical terminology involved.

(d) the specific rights recognised for certain categories of person considered vulnerable because they are disadvantaged for reasons of age, health, physical or mental disability, illiteracy or a particular emotional state should be defined more clearly. This vulnerability should be mentioned by the person concerned, by those responsible for application of the law or by the defence counsel from the first moment of contact with the investigating authorities, otherwise every subsequent act in the criminal proceedings should be invalidated.

(e) any infringement of the minimum rights recognised, such as the right to technical defence, to the services of an interpreter or translator, etc, should be sanctioned by invalidation of procedural acts. This is the only way of ensuring that the competent authorities respect defence guarantees with a view to fair legal proceedings.

(f) since the minimum guarantees for suspects should also apply to third-country nationals, it is essential to ensure that the Letter of Rights can be understood even by those who do not speak one of the official languages of the Union. The Member States should therefore establish into what other languages the notification is to be translated.

In conclusion, we can only express the hope that the Commission will as soon as possible draft new measures aimed at regulating other fundamental rights for suspects and defendants,

such as the ‘ne bis in idem’ principle, the right to remain silent, presumption of innocence, guarantees regarding preventive and subsequent detention, the right of appeal against decisions and the admissibility of evidence. Only then will the legislative reference framework match the aspirations for the creation of a genuine common judicial area in which the central importance of every individual’s inviolable rights is ensured.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Article 2, paragraph 1

1. A suspected person **has** the right to legal advice **as soon as possible and throughout** the criminal proceedings if he wishes to receive it.

1. A suspected person **shall have** the right to legal advice **at every stage and level of** the criminal proceedings if he wishes to receive it.

Justification

The technical defence of suspects, provided by a lawyer, is compulsory and essential at every stage of the criminal proceedings. This meets the need to guarantee full respect for the right of defence, which is a particularly delicate issue in criminal matters and requires specific professional competences.

Amendment 2 Article 2, paragraph 2

2. A suspected person **has** the right to receive legal advice before answering questions in relation to the charge.

2. A suspected person **shall have** the right to receive legal advice **within a maximum of 24 hours and in any event** before answering questions in relation to the charge.

Justification

Technical defence must be provided for suspects from the first moment of contact with the investigating authorities, which may precede the actual questioning.

¹ Not yet published in OJ.

Amendment 3
Article 2, paragraph 2 a (new)

2a. Failure to respect the right to legal advice shall invalidate all subsequent acts and those dependent on them throughout the criminal proceedings.

Justification

Infringement of the fundamental right to defence should be sanctioned by the invalidation of all acts carried out in the absence of the suspect's defence counsel.

Amendment 4
Article 3

Article 3

deleted

Obligation to provide legal advice

Notwithstanding the right of a suspected person to refuse legal advice or to represent himself in any proceedings, it is required that certain suspected persons be offered legal advice so as to safeguard fairness of proceedings. Accordingly, Member States shall ensure that legal advice is available to any suspected person who:

- is remanded in custody prior to the trial, or***
- is formally accused of having committed a criminal offence which involves a complex factual or legal situation or which is subject to severe punishment, in particular where in a Member State, there is a mandatory sentence of more than one year's imprisonment for the offence, or***
- is the subject of a European Arrest Warrant or extradition request or other surrender procedure, or***
- is a minor, or***
- appears not to be able to understand or follow the content or the meaning of the proceedings owing to his age, mental, physical or emotional condition.***

Justification

Since legal advice is to be guaranteed always this article becomes superfluous.

Amendment 5

Article 4, paragraph 2 a (new)

2a. For the purposes of any procedural deadlines laid down pursuant to this framework decision, time shall start to run only upon service on the lawyer acting for the suspected person of notice of the proceedings, regardless of whether or not that person has already received notice thereof.

Amendment 6

Article 5, paragraph 1

1. ***Where Article 3 applies***, the costs of legal advice shall be borne in whole or in part by the Member States if these costs would cause undue financial hardship to the suspected person or his dependants.

1. The costs of legal advice shall be borne in whole or in part by the Member States if these costs would cause undue financial hardship to the suspected person or his dependants.

Justification

To make the wording consistent with the previous amendments.

Amendment 7

Article 6, paragraph 1, subparagraph 1a (new)

The interpreter shall be made available for the whole duration of the proceedings, from the first moment of contact with the investigating authorities and in any event before the suspected person answers questions relating to the charges.

Justification

In order to ensure the right of defence an interpreter should be made available to the suspected person from the first moment of contact with the investigating authorities, which may precede the actual questioning.

Amendment 8 Article 6, paragraph 2

2. Member States shall ensure that, **where necessary**, a suspected person receives free interpretation of legal advice received throughout the criminal proceedings.

2. Member States shall ensure that a suspected person receives free interpretation of legal advice received throughout the criminal proceedings.

Justification

In order to ensure the right to technical defence steps should be taken to facilitate communications between the suspect and the defence counsel and thus to ensure, where necessary, the services of an interpreter free of charge.

Amendment 9 Article 8, paragraph 1

1. Member States shall ensure that **the** translators and interpreters **employed are sufficiently qualified to provide accurate translation and interpretation.**

1. Member States shall ensure that **a national register of sworn** translators and interpreters **accessible to professional linguists in all the Member States with an equivalent level of qualification throughout the Union is established. Those listed on the register shall be obliged to respect a national or Community code of conduct designed to ensure the impartial and faithful exercise of translation and interpretation work.**

Justification

The creation of a special national register of translators and interpreters is designed to ensure a minimum and uniform level of professional qualification throughout the territory of the Union.

Furthermore, it will make it possible to oblige those listed on the register to comply with ethical rules of conduct.

Amendment 10
Article 10, paragraph 1

1. Member States shall ensure that a suspected person who cannot understand or follow the content or the meaning of the proceedings owing to his age, **mental, physical or** emotional condition is given specific attention in order to safeguard the fairness of the proceedings.

1. Member States shall ensure that a suspected person who cannot understand or follow the content or the meaning of the proceedings owing to his age, **state of health, physical or mental disability, illiteracy or particular** emotional condition is given specific attention in order to safeguard the fairness of the proceedings.

Justification

The categories of particularly vulnerable subjects need to be defined more precisely .

Amendment 11
Article 10, paragraph 3 a (new)

3a. Failure to assess and notify the vulnerability of the suspected person shall, if not remedied, invalidate any subsequent action taken in the criminal proceedings.

Justification

Failure to respect the particular protection needs of the categories defined as vulnerable should invalidate all subsequent procedural acts, so that the competent authorities are made aware of the need to gather all relevant information if they are to continue with the proceedings.

Amendment 12
Article 11, paragraph 2

2. Member States shall ensure that medical assistance is provided whenever necessary.

2. Member States shall ensure that medical assistance is provided whenever necessary. **Member States shall ensure that suspected persons suffering from mental or nervous illnesses receive assistance from a psychiatrist.**

Justification

Persons suffering from mental or nervous instability should be guaranteed the support of a specialist who may assist them throughout the proceedings so as to help them to understand

and to offer them emotional support.

Amendment 13
Article 11, paragraph 3

3. Where appropriate, specific attention may include the right to have a third person present during any questioning by police or judicial authorities.

3. Where appropriate, specific attention may include the right to have a third person present during any questioning by police or judicial authorities. ***Suspected persons who are minors shall have the right to have their parents present during any questioning.***

Justification

In accordance with the UN Convention on the Rights of the Child under-age suspects should be ensured the assistance of their parents throughout the proceedings, in order to ensure that they are emotionally fit to cope with the criminal proceedings.

Amendment 14
Article 14, paragraph 3 a (new)

3a. The Member States shall determine into which other languages the Letter of Rights should be translated, bearing in mind the languages most commonly used on the territory of the Union as a result of third-country citizens immigrating into or residing in the Union. Paragraphs 2 and 3 shall apply.

Justification

In various Member States there are a number of communities who speak a foreign language. In order to guarantee the right of defence for third-country nationals who do not understand any of the Union's official languages, the Letter of Rights needs to be translated into other languages proposed by the Member States, such as other European and non-European languages, e.g. Russian, Turkish, Arabic and Chinese.

Amendment 15
Article 14 a (new)

Article 14a

Prohibition of discrimination

Member States shall take preventive measures to ensure that a suspected person, irrespective of his or her racial or ethnic background, or sexual orientation, receives equal access to legal assistance and equal treatment at each and every stage of the criminal proceedings listed in Articles 2 to 14 inclusive.

Justification

In accordance with the European Convention on Human Rights (Articles 6, 'Right to a fair trial' and 14 'Prohibition of discrimination') and the Race Directive (Article 2a).

Amendment 16

Article 15, paragraph 2

2. Evaluation and monitoring shall be carried out under the supervision of the European Commission which shall coordinate reports on the evaluation and monitoring exercise. Such reports *may* be published.

2. Evaluation and monitoring shall be carried out under the supervision of the European Commission which shall coordinate reports on the evaluation and monitoring exercise. Such reports *shall* be published.

Justification

In the interests of transparency it would be useful for the reports to be published periodically.

PROCEDURE

Title	Proposal for a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union
References	COM(2004)0328 – C6-0071/2004 – 2004/0113(CNS)
Committee responsible	LIBE
Committee asked for its opinion Date announced in plenary	JURI 15.9.2004
Enhanced cooperation	
Drafts(wo)man Date appointed	Giuseppe Gargani 26.10.2004
Discussed in committee	19.1.2005 3.3.2005
Date amendments adopted	3.3.2005
Result of final vote	for: 24 against: 0 abstentions: 0
Members present for the final vote	Maria Berger, Marek Aleksander Czarnecki, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Klaus-Heiner Lehne, Katalin Lévai, Marcin Libicki, Antonio López-Istúriz White, Antonio Masip Hidalgo, Aloyzas Sakalas, Andrzej Jan Szejna, Theresa Villiers, Diana Wallis, Rainer Wieland, Nicola Zingaretti, Jaroslav Zvěřina, Tadeusz Zwiefka
Substitutes present for the final vote	Alexander Nuno Alvaro, Jean-Paul Gauzès, Luis de Grandes Pascual, Evelin Lichtenberger, Arlene McCarthy, Toine Manders, Manuel Medina Ortega, Marie Panayotopoulos-Cassiotou, Alexander Radwan, Michel Rocard
Substitutes under Rule 178(2) present for the final vote	

PROCEDURE

Title	Report on the proposal for a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union			
References	COM(2004)0328 – C6-0071/2004 – 2004/0113(CNS)			
Legal basis	Article 39(1) EU			
Basis in Rules of Procedure	Rules 93 and 51			
Date of consulting Parliament	11.06.2004			
Committee responsible Date announced in plenary	LIBE 15.9.2004			
Committee(s) asked for opinion(s) Date announced in plenary	JURI 15.9.2004			
Not delivering opinion(s) Date of decision				
Enhanced cooperation Date announced in plenary				
Rapporteur(s) Date appointed	Kathalijne Maria Buitenweg 26.7.2004			
Previous rapporteur(s)				
Simplified procedure Date of decision				
Legal basis disputed Date of JURI opinion	/			
Financial endowment amended Date of BUDG opinion	/			
European Economic and Social Committee consulted Date of decision in plenary				
Committee of the Regions consulted Date of decision in plenary				
Discussed in committee	27.7.2004	24.11.2004	19.1.2005	16.3.2005
Date adopted	16.3.2005			
Result of final vote	for:	27		
	against:	18		
	abstentions:	0		
Members present for the final vote	Alexander Nuno Alvaro, Edit Bauer, Johannes Blokland, Mihael Brejc, Kathalijne Maria Buitenweg, Maria Carlshamre, Michael Cashman, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Antoine Duquesne, Patrick Gaubert, Livia Járóka, Magda Kósáné Kovács, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Henrik Lax, Edith Mastenbroek, Jaime Mayor Oreja, Claude Moraes, Martine Roure, Michele Santoro, Amalia Sartori, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka			
Substitutes present for the final vote	Panayiotis Demetriou, Maria da Assunção Esteves, Giovanni Claudio Fava, Ignasi Guardans Cambó, Luis Francisco Herrero-Tejedor, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Jean Lambert, Vincent			

	Peillon, Marie-Line Reynaud, Agnes Schierhuber, Bogusław Sonik
Substitutes under Rule 178(2) present for the final vote	Thijs Berman, Christofer Fjellner, Peter Skinner, Tadeusz Zwiefka
Date tabled – A6	21.3.2005 A6-0064/2005
Comments	...