Minimum standards in all Member States for procedural safeguards for suspects and defendants in criminal cases

2003/2179(INI) - 19/02/2003 - Document attached to the procedure

PURPOSE : to present a Green Paper on procedural safeguards for suspects and defendants in criminal proceedings throughout the EU. CONTENT : This Green Paper is the next step in the consultation process on achieving minimum common standards of procedural safeguards throughout the Member States in respect of persons suspected of, accused of, prosecuted for and sentenced in respect of criminal offences. It considers what those minimum common standards could be and the areas in which they may be applied. It is important for the judicial authorities of each Member State to have confidence in the judicial systems of the other Member States. This will soon apply to twenty-five rather than fifteen Member States. Faith in procedural safeguards and the fairness of proceedings operate so as to strengthen that confidence. It is therefore desirable to have certain minimum common standards throughout the EU, although the means of achieving those standards must be left to the individual Member States. For the past year, the Commission has been carrying out a review of procedural safeguards. It published a broad Consultation Paper setting out the areas that might become the focus of subsequent measures and asked for comments and responses from interested parties. At the same time, a questionnaire on various aspects of trial procedures under their own existing domestic system was sent to the Member States. Using the responses to those two documents, the Commission identified the following areas as appropriate for immediate consideration, and lists a number of specific questions. The five areas are: 1) access to legal representation, both before the trial and at trial : The right to legal representation is well established in the European Convention on Human Rights and other international covenants. This section examines such questions as whether Member States should be required to establish a national scheme for providing legal representation in criminal proceedings. If so, the Commission asks whether the requirement should be extended to verifying that remuneration is enough to make participation in the scheme attractive for defence lawyers, as well as the level of experience or qualifications of the lawyers participating in the scheme. It also looks at how Member States may make the assessment of whether the defendant is able to pay for legal representation or not, and whether there should be sanctions, other than any findings of the ECHR, if a Member State fails to provide legal assistance and representation where a person is entitled to it. 2) access to interpretation and translation : The Green Paper looks at the kind of criteria that can be used to determine when it is necessary for the defendant to have separate translators and interpreters from the court, and whether Member States should be required to provide translations of certain clearly defined procedural documents in criminal proceedings. It also looks at systems of accreditation and registration. 3) notifying suspects and defendants of their rights (the "Letter of Rights") : The Green Paper asks whether a common EUwide Letter of Rights is feasible and what it should it contain. It also asks what would be the legal consequences of failing to give the suspect the Letter of Rights. 4) ensuring that vulnerable suspects and defendants in particular are properly protected : This section asks whether certain persons are especially vulnerable, and, if so, what can Member States be required to do to offer them an adequate level of protection in criminal proceedings. 5) consular assistance to foreign detainees : This section examines whether Member States should be required to ensure that there is an official with responsibility for looking after the rights of suspects and defendants in criminal proceedings in the Host state, including acting as a liaison person with their families and lawyers. Finally, the Green Paper considers how to evaluate whether the Member States are complying with their obligations.