Criminal judicial cooperation: procedural rights in criminal proceedings throughout European Union

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PURPOSE : to set common minimum standards as regards certain procedural rights applying in criminal proceedings throughout the European Union. PROPOSED ACT : Council Framework Decision. CONTENT : following the Commission's Green Paper in February 2003, the overwhelming majority of respondents endorsed the Commission's proposal to set common minimum standards for procedural safeguards. This proposal seeks to enhance the rights of all suspects and defendants in criminal proceedings generally. The scope of the proposal ensures that there is no differentiation between EU national and third country nationals. The areas where common minimum standards are proposed at this stage are: - access to legal advice, both before the trial and at trial; - access to free interpretation and translation; - ensuring that persons who are not capable of understanding or following the proceedings receive appropriate attention; - the right to communicate, inter alia, with consular authorities in the case of foreign suspects, and - notifying suspected persons of their rights (by giving them a written "Letter of Rights"). The decision to make proposals in relation to these five rights at this stage was taken because these rights are of particular importance in the context of mutual recognition, since they have a transnational element which is not a feature of other fair trial rights, apart from the right to bail which is being covered separately in a forthcoming Green Paper. The package of measures will ensure that the rights of the foreign suspect or defendant are protected even if he does not understand the language of the host country or have any knowledge of the criminal justice system. Ensuring that the rights of foreign suspects and defendants are properly respected will have the dual effect of improving each Member State's perceptions of the justice systems of the other Member States and filter-down consequences for all suspects and defendants. All Member States are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). However, experience has shown that, despite the need for such confidence, there is not always sufficient trust in the criminal justice systems of other Member States and this notwithstanding the fact that they are all signatories to the ECHR. The rights proposed will operate so as to strengthen mutual trust and thereby enhance the operation of mutual recognition in all its forms as regards criminal matters. Implementation of the principle of mutual recognition of decisions in criminal matters presupposes that Member States have trust in each other's criminal justice systems. The proposal includes the duty on the Member States to collect data, and a non-regression clause.