European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters. Framework Decision

2003/0270(CNS) - 31/03/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a non-binding resolution drafted by Ornella PACIOTTI (PES, I) on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters. However, certain amendments were made to this text, these are as follows: - the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States was the first concrete measure in the field of criminal law implementing the principle of mutual recognition, though its implementation by Member States has been disappointingly slow and incomplete; - the issuing authority shall certify in the warrant that all necessary conditions have been fulfilled; - where data is exchanged pursuant to this Framework Decision, a data subject may claim the rights relating to data protection, including blocking, correction, deletion, and access to personal data and related remedies, which would accrue to him or her under the law of either the issuing or the executing Member State. In particular, a data subject may claim the rights that would accrue to him or her under the law of either the issuing or the executing Member State regarding the use of a criminal record in the executing Member State transmitted pursuant to this Framework Decision, including the rules on rehabilitation of offenders and concerning use of that record to determine guilt or sentencing in criminal proceedings; - a judge, investigating magistrate or prosecutor in the executing State shall oppose the recognition or execution of the European Evidence Warrant if the offence on which the evidence warrant is based is covered by amnesty in the executing Member State, where that State had jurisdiction to prosecute the offence under its own criminal law; the person who is the subject of the European evidence warrant may not, owing to his age, be held criminally responsible for the acts on which the evidence warrant is based under the law of the executing State; there are reasons to believe, on the basis of objective elements, that the warrant is issued for the purpose of prosecuting or punishing a person on account of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of these reasons; the execution of the warrant would prevent a Member State from applying its constitutional rules relating to due process, privacy and the protection of personal data, freedom of association, freedom of the press and freedom of expression in other media; or there are substantial grounds to believe that the execution of the warrant would undermine the obligation to respect the fundamental rights and fundamental legal principles enshrined in Article 6 of the EU Treaty, in particular regarding the right to a fair trial or the right to respect for private life, including data protection; - on the issue of the subsequent use of evidence, Parliament states that the use of the evidence acquired pursuant to this Framework Decision shall in no way prejudice the rights of the defence in subsequent criminal proceedings in which that evidence is used, in particular as regards the admissibility of the evidence, the obligation to disclose that evidence to the defence and the ability of the defence to challenge thatevidence; - no later than 1 October 2006, and annually thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Framework Decision, paying special attention to the application of procedural safeguards; - Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 1 January 2005 and shall make every effort to agree a Framework Decision on procedural safeguards for defendants, including in relation to the collection and admissibility of evidence, before that date; - each Member State shall make a statement, which it shall deposit with the General Secretariat of the Council, naming the issuing authorities and executing authorities it designates.