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

2004/0113(CNS) - 12/04/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution by 523 votes in favour to 68 against with 13 abstentions on procedural rights in criminal proceedings. The resolution was drafted by Kathalijne Maria BUITENWEG (Greens/EFA, NL). Parliament made some amendments, principally the following:

- the words "as soon as possible" are replaced by "without undue delay";

- a new recital states that 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;

- all measures shall be in conformity with the ECHR and the Charter of Fundamental Rights of the European Union;

- the 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;

- suspected persons with a visual handicap or reading disabilities should be notified orally of their basic rights;

- Parliament inserted a new article defining terms such as “legal advice”, “criminal proceedings” and “persons assimilated to family members”;

- a new article states that before they make statements or as soon as they are subject to measures which restrict their freedom, whichever is sooner, suspected persons shall be entitled to be informed by the authorities of the charges laid against them and of the grounds for suspicion;

- a suspected person must have right to legal advice within twenty four hours of arrest;

- the suspected person must have certain rights relating to the confidentiality of advice;

- failure to respect the right to legal advice shall invalidate all subsequent acts and those dependent on them throughout the criminal proceedings;

- Member States shall ensure that the lawyer has access to the entire case-file within good enough time to be able to prepare the defence;

- the procedural time limits laid down in the 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;

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

- failure to assess and notify the vulnerability of the suspected person shall, if not remedied, invalidate any subsequent action taken in the criminal proceedings;

- the written notification - the Letter of Rights - shall be presented to the suspected person when he is first questioned, whether in the police station or elsewhere.

Finally, Parliament laid down that every year, Member States must 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.