

Application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. Framework Decision. Initiative Austria, Finland, Sweden

2005/0805(CNS) - 14/06/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Ioannis **VARVITSIOTIS** (EPP-ED, EL) and made some amendments to the proposed initiative. The resolution was adopted by 484 votes to 53 against with 9 abstentions. Parliament proposed several amendments, particularly with regard to transfer deadlines and prisoners' rights. The main amendments are as follows:

- in order to reflect two essential aspects of the document produced by the Council's working party, i.e. the mutual recognition and the enforcement of custodial sentences, the title should be amended to "Council Framework Decision on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union". MEPs argued that the recognition and enforcement should take place not on the basis of a 'European enforcement order' but rather on the basis of the judgment and a certificate. A series of amendments sought to reflect these changes in the body of the text;
- on the question of whether or not the sentenced person should give consent for the transfer, the committee amended the wording of recital 5 which had said that Member States had "a basic duty" to take charge of nationals or residents sentenced in another country, "irrespective of their consent, unless there are specific reasons for refusal". The amendment stipulated that, "notwithstanding the necessity of providing the sentenced person with adequate safeguards, his or her involvement in the proceedings should no longer be dominant by requiring his or her consent" for demanding the transfer;
- a judgment, together with a certificate as provided, may be forwarded to one of the prescribed list of Member States; Parliament deleted a clause that allowed transfers to be refused if the prisoner is neither a national, permanent resident or 'has 'close links to' the country to which they are being sent.
- the judgment forwarded to the Member State to which the sentenced person would be transferred may include data in any form concerning that person's prison record;
- a series of amendments were designed to ensure that the receiving Member state can refuse the transfer if the necessary requisites are not met;
- the final decision on the recognition of the judgment and the enforcement of the sentence should be taken within 30 days (or, in some cases, within 60 days) of receipt of the judgment and the certificate (rather than 3 weeks as originally proposed);
- an amnesty or pardon may be granted by the state issuing the sentence only in consultation with the receiving state;

- the victims of the crime shall also be informed of the existence of an application for recognition and transfer of the enforcement of the sentence, and of the outcome of the procedure, including the order to transfer the sentenced person from the issuing State to the executing State;
- transfers should only be possible if the prisoner has at least six months of their sentence still to serve, not four months as proposed;
- Member States through which the prisoner must transit en route to the state of destination should be merely “informed” of the transfer, rather than having to request their permission to transit;
- Finally, the certificate, the standard form of which is set out in the Annex, must be translated into the official language, or one of the official languages, of the executing State.