Basic information

2009/0101(CNS) CNS - Consultation procedure Decision	Procedure lapsed or withdrawn
Judicial cooperation in criminal matters: right to interpretation and to translation in criminal proceedings **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	LUDFORD Baroness Sarah (ALDE)	02/09/2009

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	02/09/2009

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2969	2009-10-23

European Commission

Commission DG	Commissioner
Justice and Consumers	BARROT Jacques

Key events

Date	Event	Reference	Summary
08/07/2009	Legislative proposal published	COM(2009)0338	Summary
17/09/2009	Committee referral announced in Parliament		
23/10/2009	Debate in Council		

Technical information

Procedure reference	2009/0101(CNS)

Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 031-p1
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	LIBE/7/00404

Documentation gateway

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2009)0338	08/07/2009	Summary
Document attached to the procedure	SEC(2009)0915	08/07/2009	
Document attached to the procedure	SEC(2009)0916	08/07/2009	

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2009)0338	24/07/2009	
Contribution	IT_SENATE	COM(2009)0338	30/07/2009	
Contribution	AT_BUNDESRAT	COM(2009)0338	08/09/2009	
Contribution	FR_SENATE	COM(2009)0338	10/09/2009	
Contribution	NL_SENATE	COM(2009)0338	10/09/2009	
Contribution	DE_BUNDESTAG	COM(2009)0338	15/09/2009	
Contribution	MT_PARLIAMENT	COM(2009)0338	15/09/2009	
Contribution	SI_ASSEMBLY	COM(2009)0338	17/09/2009	
Contribution	NL_CHAMBER	COM(2009)0338	18/09/2009	
Contribution	IE_HOUSES-OF-OIREACHTAS	COM(2009)0338	03/11/2009	
Contribution	BG_PARLIAMENT	COM(2009)0338	01/12/2009	
Contribution	CZ_SENATE	COM(2009)0338	07/12/2009	
Contribution	IT_SENATE	COM(2009)0338	31/03/2010	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Judicial cooperation in criminal matters: right to interpretation and to translation in criminal proceedings

2009/0101(CNS) - 08/07/2009 - Legislative proposal

PURPOSE: to set common minimum standards as regards the right to interpretation and translation in criminal proceedings throughout the European Union.

PROPOSED ACT: Council Framework Decision.

BACKGROUND: the right to interpretation and translation, which stems from the **European Convention on Human Rights (ECHR)**, is fundamental for a person facing a criminal charge who does not understand the language of the proceedings so that the suspect knows the charges against him and understands the procedure. The suspect must be in a position to understand of what he is accused. Translations should be provided of essential procedural documents. In accordance with the ECHR, interpretation and translation must be provided free of charge.

The Programme of Measures to **Implement the Principle of Mutual Recognition of Decisions in Criminal Matters**, adopted by the Council and the Commission in 2000, pointed out that mutual recognition is very much dependent on a number of parameters which determine its effectiveness. These parameters include mechanisms for safeguarding the rights of suspects and the definition of common minimum standards necessary to facilitate application of the principle of mutual recognition. This proposal for a Framework Decision represents an embodiment of the stated aim of enhancing the protection of individual rights. The proposal is envisaged as a first step in a series of measures designed to replace the Commission's 2004 proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union, which is withdrawn after due notification to the Council and the European Parliament. Agreement could not be reached on that proposal, despite three years of discussions in the Council Working Group. Adopting a step-by-step approach is now seen as a generally acceptable way to proceed, which will also gradually help build confidence and contribute to enhancing mutual trust.

IMPACT ASSESSMENT: the options considered were as follows:

Option 1: maintaining the status quo, entailing no EU action;

Option 2: non-legislative measures (such as recommendations), which would encourage exchanges between Member States and help to identify best practice;

Option 3: a measure restricted to cross-border cases;

Option 4: a new instrument covering all rights along the lines of the 2004 proposal;

Option 5: a step-by-step approach, beginning with measures on access to interpretation and translation, involving a new Framework Decision requiring Member States to provide minimum standards only for access to interpretation and translation.

The Impact Assessment identified the **combination of options 2 (non-legislative measures) and 5 (step-by-step approach)** as the preferred approach maximising synergies between legislative and non-legislative action. Therefore this Framework Decision should be followed up by a document on best practice.

CONTENT: this proposal seeks to improve the rights of suspects who do not understand and speak the language of the proceedings. It sets common minimum standards and builds on the ECHR and the case-law of the European Court of Human Rights (ECtHR).

The main elements of the proposal are as follows:

Scope: the proposal covers all persons suspected in respect of a criminal offence until final conviction (including any appeal). ECtHR case law clarifies that persons arrested or detained in connection with a criminal charge also come within the ambit of this provision. These rights start to apply from the time when the person is informed that he is suspected of having committed an offence.

The proposal also applies to European Arrest Warrant cases.

The right to interpretation: the proposal lays down the basic principle that interpretation should be provided during the investigative and judicial phases of the proceedings, i.e. during police questioning, at trial and at any interim hearings or appeals. The right is also extended to legal advice given to the suspect if his lawyer speaks a language that he does not understand.

The right to translation of essential documents: the suspect has the right to translation of essential documents in order to safeguard the fairness of the proceedings. The essential documents for the criminal proceedings should therefore include the charge sheet or indictment and any relevant

documentary material such as key witness statements needed in order to understand "in detail, the nature and cause of the accusation against him" in accordance with the ECHR. Translation should also be provided of: (i) any detention order or order depriving the person of his liberty and the judgment; (ii) proceedings for the execution of a European Arrest Warrant.

Member States to meet the costs of interpretation and translation: the proposal provides that the costs of interpretation and translation are to be met by the Member State.

Quality of the interpretation and translation: the proposal sets out the basic requirement to safeguard the quality of interpretation and translation. Recommendations in this respect can be found in the Report of the Reflection Forum on Multilingualism and Interpreter Training.

Non-regression clause: the purpose is to ensure that setting common minimum standards in accordance with this Framework Decision does not have the effect of lowering standards in certain Member States and that the standards set in the ECHR are maintained. Member States remain entirely at liberty to set standards higher than those agreed in this Framework Decision.