

# Procedure file

| Basic information   |                |                     |  |
|---|----------------|---------------------|--|
| INI - Own-initiative procedure                              | 2009/2012(INI) | Procedure completed |  |
| Development of an EU criminal justice area                  |                |                     |  |
| Subject<br>7.40.04 Judicial cooperation in criminal matters |                |                     |  |

| Key players                   |  |   |                         |
|-------------------------------|--|---|-------------------------|
| European Parliament           | Committee responsible<br><b>LIBE</b> Civil Liberties, Justice and Home Affairs | Rapporteur<br>PSE <u>PAGANO Maria Grazia</u>                            | Appointed<br>29/01/2009 |
|                               | Committee for opinion<br><b>JURI</b> Legal Affairs                             | Rapporteur for opinion<br>The committee decided not to give an opinion. | Appointed               |
| Council of the European Union | Council configuration<br><u>Justice and Home Affairs (JHA)</u>                 | Meeting<br><u>2927</u>  | Date<br>26/02/2009      |

| Key events |  |                     |         |
|------------|--|---------------------|---------|
| 19/02/2009 | Committee referral announced in Parliament |                     |         |
| 26/02/2009 | Resolution/conclusions adopted by Council  |                     |         |
| 31/03/2009 | Vote in committee                          |                     | Summary |
| 08/04/2009 | Committee report tabled for plenary        | <u>A6-0262/2009</u> |         |
| 06/05/2009 | Debate in Parliament                       |                     |         |
| 07/05/2009 | Results of vote in Parliament              |                     |         |
| 07/05/2009 | Decision by Parliament                     | <u>T6-0386/2009</u> | Summary |
| 07/05/2009 | End of procedure in Parliament             |                     |         |

| Technical information      |  |                                |  |
|----------------------------|--|--------------------------------|--|
| Procedure reference        |  | 2009/2012(INI)                 |  |
| Procedure type             |  | INI - Own-initiative procedure |  |
| Legal basis                |  | Rules of Procedure EP 1340-p3  |  |
| Stage reached in procedure |  | Procedure completed            |  |

## Documentation gateway

|   |  |                              |            |    |         |
|---|--|------------------------------|------------|----|---------|
| Document attached to the procedure                  |  | <a href="#">B6-0335/2008</a> | 30/06/2008 | EP | Summary |
| Amendments tabled in committee                      |  | <a href="#">PE421.409</a>    | 16/03/2009 | EP |         |
| Committee draft report                              |  | <a href="#">PE421.230</a>    | 18/03/2009 | EP |         |
| Committee report tabled for plenary, single reading |  | <a href="#">A6-0262/2009</a> | 08/04/2009 | EP |         |
| Text adopted by Parliament, single reading          |  | <a href="#">T6-0386/2009</a> | 07/05/2009 | EP | Summary |

## Development of an EU criminal justice area

Pursuant to Rule 114(1) of the Rules of Procedure of the European Parliament, Panayiotis DEMETRIOU (EPP-ED, CY) proposes a proposal for a recommendation to the Council on behalf of the PPE-DE Group on the development of an EU criminal justice area.

The proposed recommendation recalls that judicial competences fall clearly within the national domain of the EU Member States and that day-to-day judicial cooperation in criminal matters is still based on mutual assistance instruments (such as the 2000 Convention on Mutual Assistance in Criminal Matters and the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters). However, the implementation of the mutual recognition principle is far from having been completely achieved, notably as regards obtaining evidence in criminal proceedings and procedures for recognition of pre-trial and post-trial measures.

Moreover, the draft recommendation stresses that the protection of rights such as the right to a fair trial, the presumption of innocence, the right of defence, the rights of victims of crime and the *ne bis in idem* principle is primarily essential in criminal proceedings in which fundamental freedoms are at stake. It notes that effective implementation of these rights largely depends on the creation of a European judicial common culture based on common principles and on mutual judicial trust. In this context, an effective procedure for the evaluation of justice is essential. The Parliament also states that judicial training plays a key role in building mutual trust and developing a common European judicial culture.

At the same time, the proposal stresses that the role of national courts is becoming more and more relevant in fighting transnational crime as well as in protecting fundamental rights and freedoms.

In this context, members of the EPP-ED group address the following recommendations to the Council:

- that it take stock with the European Parliament of the current state of judicial cooperation in criminal matters at EU level, considering both its shortcomings and its progress;
- that it implement effectively the mutual recognition principle in the area of criminal justice by taking stock of the implementation of the European Arrest Warrant;
- that it establish, together with the Parliament, a committee of wise persons (jurists) with the object of preparing a study of the similarities and differences between the criminal law systems of all Member States and to submit proposals for the development of a real EU criminal justice area;
- that it restart work without delay on procedural safeguards in criminal proceedings;
- that it pay due attention to advantages offered by new technologies;
- that it take immediate action in order to promote the creation of a real European judicial culture in criminal matters focusing on judicial training and on procedures to evaluate the quality and efficiency of justice.

## Development of an EU criminal justice area

The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report drawn up by Maria Grazia PAGANO (PES, IT) on the development of an EU criminal justice area. The committee addressed certain recommendations to Council, *inter alia*, that there should be adopted:

- an ambitious legal instrument on procedural safeguards in criminal proceedings, based on the principle of presumption of innocence. The report also enumerated the safeguards which are necessary, such as the right to legal advice, and the right to be informed in a language understandable by the suspect/defendant of the nature of the charges;
- a comprehensive legal framework offering victims of crime the widest protection, including adequate compensation and witness protection, notably in organised crime cases;
- a legal instrument on the admissibility of evidence in criminal proceedings;
- measures to fix minimum standards for prison and detention conditions and a common set of prisoners' rights in the EU, including, among others, the right of communication and consular assistance;
- measures to act as prime mover of civil society in their efforts to combat mafias and take action with a view to the adoption of a legislative instrument on confiscation of the financial assets and property of international criminal organisations and on their re-use for social purposes.

The recommendations also stressed the need to do the following:

- effectively implement the mutual recognition principle in the area of criminal justice, giving due attention to the implementation and

- daily application of the European Arrest Warrant;
- take stock of the current state of judicial cooperation in criminal matters within the EU, considering both shortcomings and progress;
- establish a committee of wise persons (jurists) with the task of preparing a study on similarities and differences between the criminal law systems of all Member States and submit proposals for the development of an EU criminal justice area that will balance effectiveness in criminal proceedings with safeguarding individual rights;
- set up, together with other organisations in this field, an objective and continuous monitoring and evaluation system of the implementation of EU policies and legal instruments in this area, as well as of quality and efficiency, integrity and fairness of justice;
- take stock of the current state of judicial training in the EU, and take immediate action in order to promote the creation of a genuine EU judicial culture by creating a European Judicial School for judges, prosecutors, defence lawyers and others involved in the administration of justice;
- urge Member States to fully implement without delay the Council Decision on the strengthening of Eurojust and to encourage national authorities to involve Eurojust in the early stages of the cooperation procedures. The recommendation suggests examination of Eurojust's competences on the resolution of conflicts of jurisdiction and power to undertake investigations or prosecutions.

Lastly, the committee suggested that the Council should pay due attention to advantages offered by new technologies to strengthen the role of the "Justice Forum", to share data, updating and reinforcing existing databases such as the customs' databases, which are essentials in fighting smuggling and human trafficking. It should also ensure respect for fundamental rights and notably a high level of protection of the privacy of individuals with regard to the processing of personal data in the framework of police and judicial cooperation in criminal matters.

## Development of an EU criminal justice area

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The European Parliament adopted by 427 votes to 49 with 9 abstentions a resolution on the development of an EU criminal justice area. Parliament addressed certain recommendations to Council, inter alia, that there should be adopted:

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The recommendations also stressed the need to do the following:

- effectively implement the mutual recognition principle in the area of criminal justice, giving due attention to the implementation and daily application of the European Arrest Warrant;
- take stock of the current state of judicial cooperation in criminal matters within the EU, considering both shortcomings and progress;
- establish a committee of wise persons (jurists) with the task of preparing a study on similarities and differences between the criminal law systems of all Member States and submit proposals for the development of an EU criminal justice area that will balance effectiveness in criminal proceedings with safeguarding individual rights;
- set up, together with other organisations in this field, an objective and continuous monitoring and evaluation system of the implementation of EU policies and legal instruments in this area, as well as of quality and efficiency, integrity and fairness of justice;
- take stock of the current state of judicial training in the EU, and take immediate action in order to promote the creation of a genuine EU judicial culture by creating a European Judicial School for judges, prosecutors, defence lawyers and others involved in the administration of justice;
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