

**Joint Parliamentary Meeting
Finnish Parliament - European Parliament**

Ministerial address:

10 YEARS AFTER THE 'GENEVA APPEAL': WHAT IS THE STATE OF JUDICIAL COOPERATION IN EUROPE?

3 October 2006, European Parliament, Brussels

Mr Chairman, Members of the European Parliament, Members of the Finnish Parliament,

With my 15 years' experience as a Member of Parliament, I understand very well the importance of parliamentarianism as a source of legitimacy for policy. I therefore appreciate the opportunity to speak to you and debate with you this subject, which is one where democratic legitimacy is very important. Few fields of European cooperation affect individuals' basic rights so directly as that which we are discussing today. The European Parliament is therefore the most suitable of places to debate it.

Time and again, European opinion polls show that public support for the work of the EU is particularly strong in the field of justice and home affairs. Our citizens understand clearly that it is necessary to share responsibility for common matters. Another reason for this strong support is that people have seen integration bear fruit more quickly in this field than in many others. Justice and home affairs is perhaps still one of the most rapidly and vigorously developing sectors in the EU.

In my opinion this shows that the EU should in future too produce concrete results in order to retain public support. Particularly in today's climate, which is more sceptical about European integration than before, it is vital that we should demonstrate the Union's capacity for action.

There was wide agreement about this when the Ministers for Justice and Home Affairs met at Tampere just under two weeks ago to debate the present state, and the future, of justice and home affairs. The debate at Tampere was one of the most profound that I have ever experienced in the EU. That alone would have been enough to make the Tampere meeting a success.

It is ten years since the Geneva Appeal was launched, seven years since the Tampere European Council and two years since agreement was reached on the Hague Programme. When I compare what the state of affairs was when judicial cooperation in criminal matters began with what we have achieved, it strikes me that the EU has done a lot, but not yet nearly enough. We have no reason to rest on our laurels.

Ladies and gentlemen,

European integration has brought about an unprecedented growth in cross-border relations. Cross-border judicial links are becoming just as diverse as judicial relationships internal to a State.

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The ideal objective of civil judicial cooperation is that no one should face legal uncertainty just because he has crossed a border between Member States. In the field of criminal justice the aim is to ensure that criminals cannot avoid the rightful consequences of their actions merely by crossing such a border.

The Tampere European Council in 1999 therefore recognised the principle of mutual recognition as a cornerstone of judicial cooperation in both civil and criminal matters at EU level. According to this principle, direct execution of decisions of the judicial authorities across Member-State borders is the basis of EU cooperation in criminal matters.

This necessitates a change of mental approach on the part of the Member States. It was quite a novelty for judicial decisions taken in one Member State to be directly executable in other Member States. Through new instruments, the principle of mutual recognition has also become an established basis for judicial cooperation in practice. At last week's unofficial summit in Tampere it was reaffirmed that the Member States are still committed to this.

Recently, certain statements have called into question the results achieved on the basis of the principle of mutual recognition. In my opinion, the principle has indeed borne fruit. One of the best-known instruments based on it is the Framework Decision on the European Arrest Warrant (EAW). The negotiations leading to the Framework Decision were a success story in their own way. They demonstrated that it was possible to produce results provided that there was enough political will.

Other mutual recognition instruments which have already been adopted include the Framework Decision on Fines and the Framework Decision on Freezing Orders. Before the adoption of the Framework Decision on Fines, it was not generally possible to enforce fines handed down by courts in other Member States. I would ask the members of other Member States' parliaments who are here today to pass on the message to their own countries that it would be desirable for the Member States to implement the Framework Decision by the agreed deadline, 22 March 2007. The Finnish Government's proposal was put before the Finnish Parliament in September this year.

The Framework Decision on Freezing Orders concerns measures to secure evidence and property whose confiscation may be ordered. The procedure provided for in the Framework Decision particularly intensifies efforts to control cross-border organised crime.

Recently, however, the pace of the negotiations concerning new mutual-recognition instruments has slowed. One example is the difficulty of the negotiations on the European Evidence Warrant (EEW). One of the main reasons for the problems which have arisen was that the proposal for this new instrument was made too soon. Experience had not yet been gained with the use of relatively new instruments, some of them concerning the same subject, such as the EU Mutual Assistance Convention of 2000 and the Framework Decision on Freezing Orders.

One important mutual recognition instrument on which Finland is seeking to establish a political consensus during its Presidency is the Framework Decision on the Transfer of Sentenced Persons. The negotiations concerning it have been laborious, but gratifying progress has been perceptible of late.

Also awaiting formal approval is the Framework Decision on Confiscation. This is a follow-up to the Framework Decision on Freezing Orders and concerns the execution in other Member States of confiscation orders issued by courts in criminal cases.

Ladies and gentlemen,

At the informal ministerial meeting in Tampere it again became clear that the principle of mutual recognition requires trust, not only between Member States but on the part of the public too. Cooperation in criminal matters, in particular, directly affects individuals' basic rights. Many of the speakers made the point that it must be possible to trust a decision taken in another Member State and the procedure which has led to it before decisions taken abroad are executed at home. On the other hand, the Member States do not wish to harmonise the criminal law and the law of criminal procedure completely.

Again, the rational way to proceed is by avoiding extremes. Confidence in other Member States' systems cannot develop without some kind of common minimum level. On the other hand, the disparate legal traditions do not permit complete harmonisation. In criminal procedures, therefore, it is important to reinforce minimum standards for the rights of suspects. This is among the priorities of the Finnish Presidency. Such minimum standards could be described as a correlative to the principle of mutual recognition.

In practice one of the principal ways of promoting the principle of mutual recognition is by stepping up implementation. It is important to support in their work those who actually have to apply the agreed procedures. Training officials, particularly public prosecutors and judges, is the key. Training of officials and mutual familiarity of authorities are also very important in promoting the confidence required by the principle of mutual recognition.

A good example of how practitioners can be supported and trained is the European Judicial Training Network (EJTN), whose General Assembly was held in Helsinki on 21 and 22 September.

Another organisation which promotes practical implementation work is the European Judicial Network (EJN), which facilitates cooperation between bodies responsible for international judicial assistance. A meeting of the EJN is to be held in Rovaniemi from 29 November to 1 December, i.e. during the Finnish Presidency.

Ladies and gentlemen,

Mutual trust is therefore important for mutual recognition. However, the need for trust does not only apply to criminal procedure. In certain situations, harmonisation of the substantive criminal law may promote trust. In this context, the guidelines agreed at the Tampere European Council in 1999 have been adhered to.

However, striking a balance between mutual recognition and harmonisation is a difficult task. Harmonisation must not be an end in itself but a means to the end of increasing confidence and

thus promoting mutual recognition. It must be clearly justified in each individual case and must yield practical benefits in the form of solutions to genuine problems.

In order to avoid the problems which have arisen during negotiations on the new instruments, it is important, before launching new initiatives, to assess carefully the need for new regulations. It is not enough merely to establish what differences exist between Member States' systems of law. In addition, it should also be established whether problems exist which hamper practical cooperation and which could be eliminated by means of new instruments. This too is a point on which there was a strong consensus between the Member States at last week's ministerial meeting in Tampere. Bearing this in mind, it is highly desirable to listen to those who have relevant practical experience, particularly judges and prosecutors.

As regards the practice of mutual recognition, it is also important to ensure that the existing instruments are applied effectively in the Member States. To this end, assessment and monitoring of implementation are needed. Likewise, it is vital to make full use of organisations which promote international cooperation between authorities, such as Eurojust.

Ladies and gentlemen,

All action presupposes effective decision-making. This point too was debated by the Ministers for Justice and Home Affairs in Tampere just under two weeks ago. The European Council had asked the Finnish Presidency to investigate possible ways of improving decision-making regarding police and judicial cooperation on the basis of the existing Treaties.

One important way in which decision-making could be rendered more effective is by introducing qualified majority decision-making. Unanimous decision-making regularly requires long negotiations and often makes it necessary to resort to compromises, which damage the quality of legislation.

The Constitutional Treaty would respond to these problems by making police and judicial cooperation a field in which QMV would apply. Last week's negotiations in Tampere showed that the Member States were still very much committed to this objective. A significant number of Member States would also be willing to accelerate progress in justice and home affairs by making use of Article 42 of the Treaty on European Union to alter the decision-making procedure. This would make it possible to introduce QMV without any Treaty amendment. The article was already in existence long before the Constitutional Treaty was even debated.

As the holder of the Presidency, Finland does not see any contradiction between these two paths. The Finnish Government itself has after all forwarded the Constitutional Treaty to the Finnish Parliament for ratification.

The Tampere meeting was an important and vital step, in the form of a debate, towards improving decision-making. In democracies, decisions are only taken after the necessary debates have been held which pave the way for them. On the basis of statements by Member States' representatives, the Presidency is preparing the ground for progress, so that the matter can be debated at the December European Council.

Mr Chairman, Members of the European Parliament, Members of the Finnish Parliament,

I should like to thank you for your invitation to this meeting and for your interest in the work of the Presidency. I shall be happy to answer your questions during the debate.