



PARLEMENT EUROPÉEN

2009 - 2014

Commission des libertés civiles, de la justice et des affaires intérieures

2009/0802(CNS)

23.9.2009

AMENDEMENTS

22 - 30

Projet de rapport
Renate Weber
(PE427.961v01-00)

on the initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden for adoption of a Council framework decision 2009/.../JHA on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
(08535/2009 – C7-0000/2009 – 2009/0802(CNS))

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PE428.153v02-00

EN

United in diversity

EN

Amendment 22
Renate Weber

Draft legislative resolution
Paragraph 5

Draft legislative resolution

5. Should the initiative not be adopted prior to the entry into force of the Treaty of Lisbon, is determined to consider any future proposal by urgent procedure, in close cooperation with the national parliaments;

Amendment

5. Calls the Council not to formally adopt the initiative prior to the entry into force of the Treaty of Lisbon so as to allow the final act to be finalised ensuring a full role and control by the Court of Justice of the European Union, the Commission and Parliament (Protocol 36 to the Treaty of Lisbon on transitional provisions). This being the case is committed to considering any further proposal by urgent procedure.

Or. en

Amendement 23
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Recital 9

Council Draft

(9) When striving to reach consensus on any effective solution aimed at avoiding the adverse consequences arising from parallel proceedings being conducted in two or more Member States, the competent authorities should take into account that each case is specific and give consideration to all its facts and merits. ***In order to reach consensus, the competent authorities should consider relevant criteria, which may include those set out in the Guidelines which were published in the Eurojust Annual Report 2003 and which were drawn up for the needs of***

Amendement

(9) When striving to reach consensus on any effective solution aimed at avoiding the adverse consequences arising from parallel proceedings being conducted in two or more Member States, the competent authorities should take into account that each case is specific and give consideration to all its facts and merits.

practitioners, and take into account for example the place where the major part of the criminality occurred, the place where the majority of the loss was sustained, the location of the suspected or accused person and possibilities for securing its surrender or extradition to other jurisdictions, the nationality or residence of the suspected or accused person, significant interests of the suspected or accused person, significant interests of victims and witnesses, the admissibility of evidence or any delays that may occur.

Or. en

Justification

The reference to jurisdiction criteria moves to art. 11 in the regulatory section of the Decision.

Amendement 24
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Recital 14

Council draft

(14) As Eurojust is particularly well suited to provide assistance in resolving conflicts of jurisdiction, the referral of a case to Eurojust should ***be a usual step***, when it has not been possible to reach consensus. It should be noted that in accordance with Article 13(7)(a) of Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against organised crime (the "Eurojust Decision"), as modified, most recently by Council Decision ***2009/.../JHA of ...*** on the strengthening of Eurojust, Eurojust has to be informed of any case where conflicts of jurisdiction have arisen

Amendment

(14) As Eurojust is particularly well suited to provide assistance in resolving conflicts of jurisdiction, the referral of a case to Eurojust should ***occur*** when it has not been possible to reach consensus. It should be noted that in accordance with Article 13(7)(a) of Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against organised crime (the "Eurojust Decision"), as modified, most recently by Council Decision ***2009/426/JHA of 16 December 2008*** on the strengthening of Eurojust, Eurojust has to be informed of any case where conflicts

or are likely to arise and that a case can be referred to Eurojust at any moment if at least one competent authority involved in the direct consultations deems it appropriate.

of jurisdiction have arisen or are likely to arise and that a case can be referred to Eurojust at any moment if at least one competent authority involved in the direct consultations deems it appropriate.

Or. en

Justification

When it has not been possible to reach consensus, the referral of the case to Eurojust should be mandatory.

Amendement 25
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 6 - paragraph 1

Council draft

1. The contacted authority shall reply to a request submitted in accordance with Article 5(1) within any reasonable deadline indicated by the contacting authority, or, if no deadline has been indicated, ***without undue delay***, and inform the contacting authority whether parallel proceedings are taking place in its Member State. In cases where the contacting authority has informed the contacted authority that the suspected or accused person is held in provisional detention or custody, the latter authority shall treat the request as a matter of urgency.

Amendement

1. The contacted authority shall reply to a request submitted in accordance with Article 5(1) within any reasonable deadline indicated by the contacting authority, or, if no deadline has been indicated, ***within 30 days***, and inform the contacting authority whether parallel proceedings are taking place in its Member State. In cases where the contacting authority has informed the contacted authority that the suspected or accused person is held in provisional detention or custody, the latter authority shall treat the request as a matter of urgency.

Or. en

Justification

A timeframe is necessary in order to ensure a response without delay.

Amendement 26
Jan Philipp Albrecht

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 8 -paragraph 1 - point c

Council draft

(c) *all relevant details about the identity* of the suspected or accused person and *about* the victims, if applicable;

Amendement

(c) *name, nationality, date of birth and address* of the suspected or accused person and *of* the victims, if applicable; *transmission of information related to so-called 'racial' or ethnic origin, religion or belief and sexual orientation are expressly prohibited;*

Or. en

Justification

It appears appropriate to specify what kind of information about identity can be transmitted and what is forbidden because unnecessary for the purpose of the Framework Decision and incompatible with privacy principles.

Amendement 27
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 11

Council drfat

When the competent authorities of Member States enter into direct consultations on a case in order to reach consensus in accordance with Article 10, they shall consider the facts and merits of the case and all the factors which they consider to be relevant.

Amendement

When the competent authorities of Member States enter into direct consultations on a case in order to reach consensus in accordance with Article 10, they shall consider the facts and merits of the case and all the factors *and criteria* which they consider to be relevant, *which may include those set out in the Guidelines published in the Eurojust Annual Report 2003 which were drawn up to meet the needs of practitioners, and take into account for example the place where the major part of*

the crime was committed, the place where the major part of the loss was sustained, the location of the suspected or accused person and the possibilities for securing his or her surrender or extradition to another jurisdiction, the nationality or residence of the suspected or accused person, any significant interests of the suspected or accused person, any significant interests of victims and witnesses, the admissibility of evidence or any delays that may occur.

Or. en

Justification

Reference to jurisdiction criteria moved from Recital 9.

Amendement 28
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 11 a (new)

Council draft

Amendement

Article 11a

Notification

When at least one of the cases – in which a conflict of jurisdiction appears to exist – is at the trial stage, the person concerned shall be notified immediately.

Or. en

Justification

The person should be able to fully access all proceedings available in a Member State.

Amendement 29
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 12 - paragraph 2

Council draft

2. Where it has not been possible to reach consensus in accordance with Article 10, the matter shall, *where appropriate*, be referred to Eurojust by any competent authority of the Member States involved, if Eurojust is competent to act under Article 4(1) of the Eurojust Decision.

Amendement

2. Where it has not been possible to reach consensus in accordance with Article 10, the matter shall be referred to Eurojust by any competent authority of the Member States involved, if Eurojust is competent to act under Article 4(1) of the Eurojust Decision. ***In that case, Eurojust shall act in accordance with Article 7(2) of the Eurojust Decision.***

Or. en

Justification

Involvement of Eurojust should be mandatory in all cases where a consensus has not been reached. The procedure provided for in Article 7(2) of the Eurojust Decision should be followed in such cases.

Amendement 30
Monica Luisa Macovei

Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden
Article 15 a (new)

Council draft

Amendement

Article 15a

Inclusion in annual report

The cases referred to Eurojust on which consensus has not been reached among Member States shall be included in the annual report of Eurojust.

Or. en

Justification

The EU citizens need to be informed of the conflicts of jurisdictions which remain unresolved.