



EUROPEAN PARLIAMENT

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Plenary sitting

A7-0268/2011

14.7.2011

RECOMMENDATION

on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway
(05307/2010 – C7-0032/2010 – 2009/0192(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Rui Tavares

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (05307/2010 – C7-0032/2010 – 2009/0192(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (05307/2010),
 - having regard to the draft agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (09644/2006),
 - having regard to the request for consent submitted by the Council in accordance with Article 82(1), point (d) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0032/2010),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0268/2011),
1. Consents to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Iceland and the Kingdom of Norway.

EXPLANATORY STATEMENT

I - Background

In July 2001 the Council authorised the Council Presidency, assisted by the European Commission, to start negotiating MLA and extradition agreements with Norway and Iceland. The extradition agreement was due to apply to Iceland and Norway the provisions of the 1996 EU Convention on Extradition, considered as not being part of the Schengen acquis. The mission statement was updated in 2002 after it was agreed that extradition within the EU would be replaced by a surrender procedure under the European arrest warrant. Despite the decision not to link the European arrest warrant to Schengen, the Council agreed that it would be useful to apply the surrender procedure model to the Schengen countries, given their privileged partnership with the EU Member States.

The Council authorised the Presidency of the Council to negotiate Agreements with Norway and Iceland on judicial cooperation in criminal matters and surrender procedures on the basis of Articles 24 and 38 of the Treaty on European Union. Council reached a general approach on the surrender agreement on 28 June 2006 but the agreement has not yet been formally concluded as at the moment of the entry into force of the Treaty of Lisbon the ratification process by Member States was not finalised and the new procedure provided for by Article 218 of the Treaty on the Functioning of the European Union (TFEU) has now to be applied. As a consequence, the Council may adopt the decision concluding the agreement, only after obtaining the consent of the European Parliament.

II - Substance of the Agreement

This agreement is aimed at improving the surrender procedure between the Member States and Norway and Iceland for the purpose of the prosecution or execution of sentence, by taking account of the terms of the Convention of 27 September 1996 relating to extradition between the Member States of the EU as minimum standards.

In accordance with the provisions of the Agreement, the contracting parties will ensure that the extradition system will be based on a mechanism of surrender pursuant to an arrest warrant. An arrest warrant may be issued for acts punishable by the law of the issuing state by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months.

III - Your rapporteur's position

Insofar as this agreement merely extends to Norway and Iceland - on request of these two countries - provisions that are already in place among EU Member States, your rapporteur does not see reasons to object. However, he is of the opinion that the European Arrest Warrant must be the object of an evaluation in order to respond to public concerns on possible abuses or defects of this instrument. In particular, your rapporteur expresses his concern on problems that the partial waiver on dual criminality may lead to. This waiver, as framed by Article 3(4) of the agreement, creates the possibility of arrest and surrender on practices that

do not constitute a crime in both concerned countries. A case in point is the possibility to waive double-verification of criminality on "facilitation of unauthorised entry and residence". Your rapporteur is of the opinion that the agreeing parties should exercise restraint on such waivers of double-criminality verification, in order to avoid arrests and surrenders on minor offences. Finally, your rapporteur emphasises the need to go further in the area of procedural rights, in order to provide citizens with a robust array of rights to go together with the use of the European Arrest Warrant, thus providing guaranties to civil liberties and public trust on this instrument.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	12.7.2011
Result of final vote	+: 48 -: 1 0: 4
Members present for the final vote	Jan Philipp Albrecht, Sonia Alfano, Alexander Alvaro, Roberta Angelilli, Viliija Blinkevičiūtė, Mario Borghezio, Rita Borsellino, Emine Bozkurt, Simon Busuttil, Philip Claeys, Carlos Coelho, Rosario Crocetta, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Hélène Flautre, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Ágnes Hankiss, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Véronique Mathieu, Nuno Melo, Jan Mulder, Antígoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Wim van de Camp, Daniël van der Stoep, Renate Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Edit Bauer, Anna Maria Corazza Bildt, Ioan Enciu, Monika Hohlmeier, Jean Lambert, Antonio Masip Hidalgo, Mariya Nedelcheva, Hubert Pirker, Michèle Striffler, Kyriacos Triantaphyllides, Cecilia Wikström