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## **PROPOSAL FOR A RECOMMENDATION TO THE COUNCIL**

pursuant to Rule 114(1) of the Rules of Procedure

by Panayiotis Demetriou

on behalf of the PPE-DE Group

on the development of an EU criminal justice area

**European Parliament recommendation to the Council on the development of an EU criminal justice area**

*The European Parliament,*

- having regard to Articles 6, 29, 31(1)(c) and 34(2)(a) and (b) of the TEU, to the Charter of Fundamental Rights of the European Union, notably Articles 47, 48, 49 and 50, and to the European Convention for the Protection of Human Rights and Fundamental Freedoms, notably Articles 5, 6, 7 and 13,
  - firmly convinced of the need to step up the dialogue on these matters with national Parliaments, civil society and the judicial authorities,
  - having regard to the Communication from the Commission on the creation of a Forum for discussing EU justice policies and practice<sup>1</sup> and to the Communication from the Commission on Judicial Training in the EU<sup>2</sup>,
  - having regard to the Communication from the Commission 'Towards a European e-Justice Strategy'<sup>3</sup>,
  - having regard to previous Recommendations by the European Parliament<sup>4</sup> to the Council;
  - with a view to identifying the best way to develop an EU criminal justice area,
  - having regard to Rule 114(1) of its Rules of Procedure,
- A. whereas judicial competences fall clearly within the national domain of the EU Member States,
- B. whereas 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<sup>5</sup> and the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters<sup>6</sup>,
- C. whereas the implementation of the mutual recognition principle is far from having been completely achieved, notably as regards obtaining evidence in criminal proceedings and

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<sup>1</sup> COM(2008) 38 final.

<sup>2</sup> COM(2006) 356 final.

<sup>3</sup> COM(2008) 329 final.

<sup>4</sup> Recommendation to the Council and the European Council on the future of the area of freedom, security and justice as well as on the measures required to enhance the legitimacy and effectiveness thereof, OJ C 166 E, 7.7.2005, p. 58-63; recommendation to the Council on the quality of criminal justice and the harmonisation of criminal law in the Member States, OJ C 304 E, 1.12.2005, p. 109-113.

<sup>5</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2000:197:0001:0023:EN:PDF>

<sup>6</sup> <http://conventions.coe.int/Treaty/en/Treaties/Html/030.htm>

procedures for recognition of pre-trial and post-trial measures,

- D. whereas, in order to be effective, an EU criminal justice area must take advantage of new technologies and use Internet tools in the implementation of EU policies,
  - E. whereas 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,
  - F. whereas 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,
  - G. whereas with a view to building mutual trust and creating a European judicial culture an effective procedure for the evaluation of justice is essential,
  - H. whereas the role of national courts is becoming more and more relevant in fighting transnational crime and, at the same time, protecting fundamental rights and freedoms,
  - I. whereas judicial training plays a key role in building mutual trust and developing a common European judicial culture,
- 1. Addresses the following recommendations to the Council:
    - (a) that it take stock with the EP of the current state of judicial cooperation in criminal matters at EU level, considering both its shortcomings and its progress;
    - (b) 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;
    - (c) that it establish, together with the EP, 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;
    - (d) that it restart work without delay on procedural safeguards in criminal proceedings;
    - (e) that it pay due attention to advantages offered by new technologies;
    - (f) 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;
  - 2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission (and the governments of ...).