Mutual recognition of supervision measures as an alternative to provisional detention *
P6_TA(2009)0199


(Consultation procedure - renewed consultation)

The European Parliament,

— having regard to the Council draft (17002/2008),

— having regard to the Commission proposal to the Council (COM(2006)0468),

— having regard to its position of 29 November 2007 (1),

— having regard to Article 34(2)(b) of the EU Treaty,

— having regard to Article 39(1) of the EU Treaty, pursuant to which the Council again consulted Parliament (C6-0009/2009),

— having regard to Rules 93, 51 and 55(3) of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0147/2009),

1. Approves the Council draft as amended;

2. Calls on the Council to amend the text accordingly;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Calls on the Council to consult Parliament again if it intends to amend the draft substantially or replace it with another text;

5. Should that draft 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 national parliaments;

6. Instructs its President to forward its position to the Council and the Commission.

Amendment 1
Draft Framework Decision
Recital 13a (new)

(13a) In the event of a breach of a European supervision measure, the issuing authority may decide to issue a European arrest warrant for the purpose of transferring the person concerned to the issuing State. In such circumstances, which should be strictly limited to the application of this Framework Decision, Framework Decision 2002/584/JHA covers all offences in relation to which a European supervision measure may be issued.

Amendment 2
Draft Framework Decision
Recital 17a (new)

(17a) A uniform common set of procedural safeguards is a necessary prerequisite to ensuring a fair and effective application of measures concerning judicial cooperation in criminal matters; taking into due consideration the opinion of the European Parliament, the Council should without delay adopt a legal instrument on procedural safeguards in criminal proceedings, based on the principle of the presumption of innocence, which should include at least the authorisation issued by the judicial authority for any restriction or deprivation of liberty, the right to a ‘Letter of Rights’, to legal advice, to evidence, to be informed of the nature and reasons of the charges and of the grounds for suspicion, the right to access to all relevant documents in a language which the person concerned understands and to an interpreter;

Amendment 3
Draft Framework Decision
Article 2 - paragraph 2a (new)

2a. For the purpose of this Framework Decision, a person is considered non-resident when his/her lawful and ordinary residence is fixed in a Member State other than the Member States where the proceedings are taking place.

Amendment 4
Draft Framework Decision
Article 4 - point a

a) 'decision on supervision measures' shall mean an enforceable decision taken in the course of criminal proceedings by a competent authority of the issuing State in accordance with its national law and procedures and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;

a) 'decision on supervision measures' shall mean an enforceable decision taken in the course of criminal proceedings by a competent judicial authority of the issuing State in accordance with its national law and procedures and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;
Amendment 5
Draft Framework Decision
Article 4 - point da (new)

(da) ‘competent authority in the issuing State’ shall mean a court, judge, investigating magistrate or public prosecutor, with competence under national law to issue a decision on supervision measures;

Amendment 6
Draft Framework Decision
Article 4 - point db (new)

(db) ‘competent authority in the executing State’ shall mean a court, judge, investigating magistrate or public prosecutor, with competence under national law to execute and monitor decision on supervision measures.

Amendment 7
Draft Framework Decision
Article 5a (new)

Article 5a
Personal data

The processing of personal data for the purposes of this Framework Decision shall comply with at least the basic principles laid down in Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (1) and in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and the subsequent protocols thereto.


Amendment 8
Draft Framework Decision
Article 6 - paragraph 2

2. As an exception to paragraph 1 and without prejudice to paragraph 3, Member States may designate non-judicial authorities as the competent authorities for taking decisions under this Framework Decision, provided that such authorities have competence for taking decisions of a similar nature under their national law and procedures. Deleted

Amendment 9
Draft Framework Decision
Article 8 - paragraph 1 - point fa (new)

(fa) an obligation to deposit a certain sum of money or to give another type of security, which may either be provided in a specific number of instalments or in one lump sum.
Amendment 10
Draft Framework Decision
Article 8 - paragraph 2 - point c

c) an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specific number of instalments or entirely at once; Deleted

Amendment 11
Draft Framework Decision
Article 9 - paragraph 1

1. A decision on supervision measures may be forwarded to the competent authority of the Member State in which the person is lawfully and ordinarily residing, in cases where the person, having been informed about the measures concerned consents to return to that State.

Amendment 12
Draft Framework Decision
Article 13 - paragraph 2

2. The adapted supervision measure shall not be more severe than the supervision measure which was originally imposed.

Amendment 13
Draft Framework Decision
Article 14 - paragraph 1

1. The following offences, if they are punishable in the issuing State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years, and as they are defined by the law of the issuing State, shall, under the terms of this Framework Decision and without verification of the double criminality of the act, give rise to recognition of the decision on supervision measures:
   — participation in a criminal organisation,
   — terrorism,
   — trafficking in human beings,
   — sexual exploitation of children and child pornography,
   — illicit trafficking in narcotic drugs and psychotropic substances,
   — illicit trafficking in weapons, munitions and explosives,
   — corruption,
— fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities’ financial interests 1,
— laundering of the proceeds of crime,
— counterfeiting currency, including of the euro,
— computer-related crime,
— environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
— facilitation of unauthorised entry and residence,
— murder, grievous bodily injury,
— illicit trade in human organs and tissue,
— kidnapping, illegal restraint and hostage-taking,
— racism and xenophobia,
— organised or armed robbery,
— illicit trafficking in cultural goods, including antiques and works of art,
— swindling,
— racketeering and extortion,
— counterfeiting and piracy of products,
— forgery of administrative documents and trafficking therein,
— forgery of means of payment,
— illicit trafficking in hormonal substances and other growth promoters,
— illicit trafficking in nuclear or radioactive materials,
— trafficking in stolen vehicles,
— rape,
— arson,
— crimes within the jurisdiction of the International Criminal Court,
— unlawful seizure of aircraft/ships,
— sabotage.

Amendment 14
Draft Framework Decision
Article 14 - paragraph 2

2. The Council may decide to add other categories of offences to the list in paragraph 1 at any time, acting unanimously after consultation of the European Parliament under the conditions laid down in Article 39(1) of the Treaty on European Union. The Council shall examine, in the light of the report submitted to it pursuant to Article 27 of this Framework Decision, whether the list should be extended or amended.
Amendment 15
Draft Framework Decision
Article 14 - paragraph 3

3. For offences other than those covered by paragraph 1, the executing State may make the recognition of the decision on supervision measures subject to the condition that the decision relates to acts which also constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.

Amendment 16
Draft Framework Decision
Article 14 - paragraph 4

4. Member States may, for constitutional reasons, on the adoption of this Framework Decision, by a declaration notified to the General Secretariat of the Council, declare that they will not apply paragraph 1 in respect of some or all of the offences referred to in that paragraph. Any such declaration may be withdrawn at any time. Such declarations or withdrawals of declarations shall be published in the Official Journal of the European Union.

Amendment 17
Draft Framework Decision
Article 15 - paragraph 1 - point d

(d) the decision on supervision measures relates, in the cases referred to in Article 14(3) and, where the executing State has made a declaration under Article 14(4), in the cases referred to in Article 14(1), to an act which would not constitute an offence under the law of the executing State; in tax, customs and currency matters, however, execution of the decision may not be refused on the grounds that the law of the executing State does not prescribe any taxes of the same kind or does not contain any tax, customs or currency provisions of the same kind as the law of the issuing State;

Amendment 18
Draft Framework Decision
Article 21 - paragraph 1

1. If the competent authority of the issuing State has issued an arrest warrant or any other enforceable judicial decision having the same effect, the person shall be surrendered in accordance with the Framework Decision on the European Arrest Warrant.

Amendment 19
Draft Framework Decision
Article 21 - paragraph 3

3. Each Member State may notify the General Secretariat of the Council, when transposing this Framework Decision or at a later stage, that it will also apply Article 2(1) of the Framework Decision on the European Arrest Warrant in deciding on the surrender of the person concerned to the issuing State.
Amendment 20
Draft Framework Decision
Article 21 - paragraph 4

4. The General Secretariat of the Council shall make the information received under the previous paragraph available to all Member States and to the Commission.

Amendment 21
Draft Framework Decision
Annex 1 - certificate - box (f) - point 2

2. If the alleged offence(s) referred to in point 1 constitute(s) one or more of the following alleged offences, as defined in the law of the issuing State which are punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least three years, please confirm by ticking the relevant box(es):

- participation in a criminal organisation,
- terrorism,
- trafficking in human beings,
- sexual exploitation of children and child pornography,
- illicit trafficking in narcotic drugs and psychotropic substances,
- illicit trafficking in weapons, munitions and explosives,
- corruption,
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities’ financial interests 1,
- laundering of the proceeds of crime,
- counterfeiting currency, including of the euro,
- computer-related crime,
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- facilitation of unauthorised entry and residence,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage-taking,
- racism and xenophobia,
- organised or armed robbery,
- illicit trafficking in cultural goods, including antiques and works of art,
- swindling,
- racketeering and extortion,
- counterfeiting and piracy of products,
— forgery of administrative documents and trafficking therein,
— forgery of means of payment,
— illicit trafficking in hormonal substances and other growth promoters,
— illicit trafficking in nuclear or radioactive materials,
— trafficking in stolen vehicles,
— rape,
— arson,
— crimes within the jurisdiction of the International Criminal Court,
— unlawful seizure of aircraft/ships,
— sabotage.

Amendment 22
Draft Framework Decision
Annex I - certificate - box (f) - point 3

3. To the extent that the alleged offence(s) identified under point 1 is (are) not covered by point 2 or if the decision, as well as the certificate are forwarded to a Member State, which has declared that it will verify the double criminality (Article 14(4) of the Framework Decision), please give a full description of the alleged offence(s) concerned:

deleted

Amendment 23
Draft Framework Decision
Annex I - certificate - box (g) - paragraph 3 - subparagraph 1 - indent 3 a (new)

an obligation to deposit a certain sum of money or to give another type of security, which may either be provided in a specific number of instalments or in one lump sum;

Amendment 24
Draft Framework Decision
Annex I - certificate - box (g) - paragraph 3 - subparagraph 2 - indent 3

an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specific number of instalments or entirely at once;

deleted