



REPUBLIK ÖSTERREICH
BUNDESMINISTERIUM FÜR JUSTIZ

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To
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Ref.: Letter of Amnesty International, Justice, Law Society
of England and Wales and European Criminal Bar
Association concerning a Proposal for a Council
Framework Decision on certain Procedural Rights in
criminal proceedings throughout the European
Union.

Vienna, 22nd March 2006

Dear Mr. Dick Oosting,

On behalf of the Austrian Federal Ministry of Justice and in particular on behalf of the chair of the Working Party on Substantive Criminal Law I would like to express that the presidency appreciates your well-meaning suggestions to further the negotiations on the proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the EU.

I understand your concerns that the terms of the negotiations could be changed and that the Council may be departing from the initial proposal of a binding legal instrument on procedural rights throughout the Union. However, such an approach was never the aim of the presidency. On the occasions of the informal ministerial meeting (Justice and Home Affairs) on 13 January 2006 in Vienna and of the Article 36 Committee on 2 February 2006 we put forward proposals how to accelerate and support negotiations. After carrying out an analysis of the outstanding issues and

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problems, the Presidency suggested, as an interim step, adopting a declaration by the Council and continuing discussions on the text of the Framework Decision at the same time. A possible declaration is intended to drive forward the debate on the proposal for a Framework Decision. It is conceived as an interim measure setting out a clear commitment to preserving the individual's fundamental rights and liberties in criminal proceedings, inter alia in the face of new threats, especially those arising from terrorist offences.

In view of divergent opinions among Member States on the best way to proceed, the proposal was, for the time being, put forward to the substantive criminal law working group, in order to analyse - jointly with experts for the European Arrest Warrant - questions of criminal procedure in connection with the principle of mutual recognition of judicial decisions.

It appears advisable at this stage of the discussion to focus attention on the main issues of the existence of an appropriate legal basis for that instrument and the relationship with the ECHR. The presidency intends to submit the instrument to the Council for discussion in the near future.

The Austrian presidency is determined to undertake every effort suitable to further the negotiations around the proposal and to develop them in line with international and European standards.

A copy of this letter is being sent to the other organisations having signed the above mentioned letter.

Sincerely yours,

Christian Pilnacek