

30 April 2009

Dear Vice President Barrot,

On behalf of the European Criminal Bar Association (ECBA) I am writing to you to express our position in respect of the intended Commission proposal on procedural safeguards and the intended "road map" of the EU Council, promoted by the impending Swedish Presidency.

The ECBA was founded in 1997 and has become the pre-eminent independent organisation of specialist defence lawyers in all Council of Europe countries. We represent over 30 different European countries including 26 EU member states. The ECBA's aim is to promote the fundamental rights of persons under investigation, suspects, accused and convicted persons, not only in theory, but also in the day-to-day practice in criminal proceedings throughout Europe. We are member of the Justice Forum and we participate in all EU experts' hearings concerning criminal law issues. More information on the ECBA can be found at our website: www.ecba.org.

At the experts' meeting on 26/27 March, hosted by the Commission, a representative from the Swedish Ministry of Justice set out the Swedish plans in the field of criminal justice during their presidency. Procedural safeguards are a priority under the Swedish presidency and their approach is to propose a "road map" for procedural safeguards to be agreed on a step-by-step (or safeguard-by-safeguard) basis. It is intended that the "road map" will set out an ambitious program with the first proposal from the European Commission to deal with translation and interpretation. This has been identified as perhaps the least controversial procedural safeguard in a multi-lingual EU. We understand that details of the "road map" and the first step proposal are currently being prepared and will be presented at the start of the Swedish presidency. In addition they announced a conference in Stockholm on 22 / 23 July 2009 entitled "Justice in the EU - from the citizens' perspective" which will review citizens' access to civil justice and their rights in criminal proceedings. At this conference the Chairman of the ECBA is invited by the Swedes to speak on procedural safeguards.

The ECBA expresses its full support for the recent political initiative. It is assumed that the most important procedural rights will be covered in the "road map". These include but are not limited to the following: rights to information before any interview by police or justice organs (e.g. information on charges, "letter" of rights, access to the file through a lawyer), right to interpretation and translation, access to a defence lawyer at any stage of the criminal proceeding, guarantee of legal aid (e.g. at least in arrest warrant cases), a completely protected right to confidential communication between the client and the defence lawyer and the right to silence absolutely protected.

The ECBA Autumn Conference on 2/3 October 2009 in Stockholm will concentrate on the Swedish "road map" and the European Commission's first step (or steps) in this process because we want to support the Commission and the Swedish initiative as best we can. This is obviously a key proposal for all citizens living and travelling in the EU founded upon the principles of mutual trust and mutual recognition in the area of freedom, security and justice.

We hope that the politicians do not fail again as they did dramatically during the German Presidency in 2007 when finally six member states refused to agree to any proposal for a framework decision on certain procedural safeguards. Please don't hesitate to contact our association if we can assist in making the new initiative successful.

Yours sincerely

Prof Dr Holger Matt
Chairman of the ECBA

cc: Swedish Permanent Representation to the EU in Brussels