



Your Excellency,

I am writing to you from the Council of Bars and Law Societies of Europe (CCBE), which represents over 700,000 European lawyers through its national bars and law societies.

The CCBE has been following developments regarding the European Commission proposal for a framework decision covering the rights of suspects and defendants in criminal proceedings throughout the European Union and has been greatly disappointed with the lack of progress.

The CCBE recalls that in October 1999 the Tampere Conclusions endorsed the principle of Mutual Recognition as "the cornerstone of judicial co-operation". The Conclusions state that "enhanced mutual recognition of judicial decisions and judgments and the necessary approximation of legislation would facilitate cooperation between authorities and *the judicial protection of individual rights*". The current Hague programme, adopted on 5 November 2004, states: "The further realisation of mutual recognition as the cornerstone of judicial cooperation implies the development of equivalent standards for procedural rights in criminal proceeding, based on the studies of the existing level of safeguards in Member States and with due respect for their legal traditions."

In the CCBE's view, it is shameful that there has been so little progress in the 4 years since publication of the Green Paper on procedural safeguards, and the publication of the Commission proposal on 28 April 2004. This proposal has been called for by the European Parliament ever since the adoption of the proposal for a European Arrest Warrant in September 2001.

The CCBE believes that the imbalance which currently exists at the European level between the rights of the prosecution and the rights of the defence threatens to undermine confidence in the principle of mutual recognition.

The CCBE also wishes to point out that, in addition to the absence of promoting procedural safeguards for suspects and defendants in criminal proceedings, there are a number of organisations which have been established to promote cooperation in the field of criminal law at a European level from a prosecution point of view. For example, Europol, Eurojust and joint investigating teams are but a few, with continuing discussions on the creation of a European Public Prosecutor. There is no similar Community activity regarding the creation of an institution (for instance, a European Criminal Law Ombudsman) which would promote cooperation with regard to issues encountered by defence lawyers when faced with cross-border activities and "mutual recognition" requirements. These are issues which could impact on all citizens regardless of whether they are suspects or defendants in criminal proceedings.

I urge that every effort be made to treat the issue of procedural safeguards with the proper attention and urgency that it deserves, and to ensure that proper consideration is given to the rights of the defence.

Yours sincerely,

Colin Tyre, QC
CCBE President