

Letter to Jacques Barrot, Commission Vice-President responsible for justice, freedom and security, from European Affairs Committee, Danish Parliament

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**Consultation regarding Commission green paper on obtaining evidence in criminal matters, etc. - COM (2009) 624**

Herewith the responses from the Folketing's Legal Affairs and European Affairs Committees on the Commission's green paper on obtaining evidence in criminal matters [*from one Member State to another and securing its admissibility*] - COM (2009) 0624.

The Legal Affairs Committee examined the green paper at its meetings on 26 November and 10 December 2009 and framed the responses set out below.

At its meeting on 13 January 2010 the European Affairs Committee endorsed the Legal Affairs Committee's responses.

In the light of the above, the Legal Affairs and European Affairs Committees state as follows:

**Minority opinion of S, SF and RV (Socialdemokratiet, Socialistisk Folkeparti and Radikale Venstre)**

A minority in the committees (S, SF and RV) regrets that owing to the opt-out Denmark cannot participate in enhanced cooperation on obtaining evidence.

Crime knows no borders and has become internationalized. Therefore, this development should also be matched by more effective cooperation among EU countries. S, SF and RV support enhanced cooperation on the exchange and use of evidence across borders. S, SF and RV point out, however, that there are significant differences in the rules for gathering evidence in criminal matters from country to country. Further work should take this into account. In this

respect, S, SF and RV think that when it comes to mutual recognition principle one should be cautious regarding the possibility of refusing to acknowledge evidence. Possibilities for refusal should be real and useable. If electronic evidence is used increasingly it is essential that this be accompanied by increased protection against manipulation of the evidence.

S, SF and RV support a Community instrument and common standards for obtaining evidence. This instrument should provide specific rules for certain types of evidence such as telephone tapping.

### **Minority opinion of Dansk Folkeparti (DF):**

Another minority in the committees (DF) expresses concern about trying to harmonize gathering of evidence at EU level, as each country may have special traditions and local conditions for obtaining in a given way. Harmonization of the gathering of evidence implies subsequent harmonization of various aspects of each country's criminal laws, including the harmonization of criminal justice systems.

DF is an unconditional supporter of bilateral police and criminal justice cooperation based on voluntary joint action. DF cannot therefore support EU harmonization.

The EU comprises 27 countries with large numbers of police districts with different cultures and traditions of police work. There are historical reasons explaining why individual countries, including police districts in each country, have evolved a little differently. It would therefore be inappropriate to impose uniformity in this field as countries and police forces are so different. The risk is that the collection and investigation of evidence is reduced by centralization of methods.

### **Minority opinion of Enhedslisten (EL):**

A third minority in the committees (EL) is against the principle of mutual recognition in the EU because it does not want the lowest standard to be applicable. EL believes, however, that the EU should first and foremost ensure proper legal certainty for citizens and businesses in the EU.

Peter Skaarup, Chair of Legal Affairs Committee,  
Anne-Marie Meldgaard, Chair of European Affairs Committee