



EUROPEAN COMMISSION

Brussels, 27/01/2010  
C/2010/46

Dear Mr Frendo,

The European Commission would like to thank the Maltese Parliament for its Opinion on the Commission proposal COM (2009) 338 for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings. The European Commission has taken note of the opinion given by the Foreign and European Affairs Committee of the Maltese Parliament.

With regard to the doubts expressed by the Committee about the appropriateness of the legal basis of the proposal, the Commission would like to point out that Article 31 EU Treaty provides for the adoption of measures which prove necessary *to improve judicial cooperation* in criminal matters. Mutual recognition, which has been the cornerstone of European judicial cooperation since the Tampere Council of 1999, requires a high degree of mutual trust between judicial authorities of different Member States to function properly. In order to reinforce this mutual trust, certain minimum common standards need to be set at EU level. In the light of these considerations, it appears that measures such as those at hand, in that they are designed to make judicial cooperation in criminal matters more effective, can be laid down by legislation having its legal basis in Article 31 (1) (c) of the EU Treaty.

Concerning the issue of subsidiarity, different alternatives were thoroughly examined by the Commission in the Impact Assessment, which preceded the Proposal. In particular, the possibility of maintaining the status quo was considered as an option but eventually discarded. It would not address the concerns expressed by many justice professionals and stakeholders throughout the EU that the existing disparities in the protection of certain procedural rights are liable to compromise the mutual trust, which underscores judicial cooperation in criminal matters. In addition, ECHR rules are not in themselves sufficient to achieve the desired result, since compliance with the ECHR varies across Member States. In contrast, the future Framework Decision will set common rules subject to uniform interpretation by the EU judicature.

I look forward to developing our policy dialogue further in the future.

Yours sincerely,

Margot WALLSTRÖM

Vice-President of the European Commission

Mr Michael FRENDON  
Chairperson  
Foreign and European Affairs Committee  
Parliament of Malta