

## **Courtesy translation**

The standing committees for Immigration & Asylum / Justice and Home Affairs (JHA) Council and for Security and Justice of the Senate of the States General have taken note with interest of the proposal for a directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest. The members of the VVD parliamentary party<sup>1</sup> and of the CDA parliamentary party<sup>2</sup> wish to submit some questions and comments to the European Commission. These members would like to learn what has prompted the Commission to depart substantially from and go considerably further than the case law of the European Court of Human Rights (ECtHR) in Strasbourg concerning the right of access to a lawyer in criminal proceedings. Or, to put it another way, why does the Commission consider that a directive on the right of access to a lawyer and communication in criminal proceedings is necessary, given that the ECtHR has made very clear pronouncements on this subject in the course of interpreting the European Convention on Human Rights (ECHR) and that all member states of the European Union and, since the Treaty of Lisbon, the European Union itself, following the completion of the negotiations on this, are also parties to the ECHR?

It is stated in recital 4 of the draft directive that although Member States are parties to the ECHR and the ICCPR, experience has shown that this in itself does not always provide a sufficient degree of trust in the criminal justice systems of other Member States. This in itself is a matter of concern because it implies that not all Member States that are parties to the ECHR abide by the judgments of the ECtHR on this subject. It appears from the proposal that the European Commission intends to strengthen confidence in the criminal justice systems of other Member States in order to implement the Stockholm Programme. The members of the VVD parliamentary party and of the CDA parliamentary party would therefore repeat their question: why go further than the ECtHR when the consequences of the ECtHR's judgments on this subject are evidently already giving rise to problems? Has the Commission considered the full extent of the consequences of the proposed directive?

The Committees for Immigration & Asylum / Justice and Home Affairs (JHA) Council and for Security and Justice look forward with interest to receiving the answers of the European Commission.

Yours sincerely,

P.L. Meurs

Chair of the standing committee for Immigration & Asylum / Justice and Home Affairs  
Council

A. Broekers-Knol

Chair of the standing committee for Security and Justice

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<sup>1</sup> The parliamentary party of the VVD (People's Party for Freedom and Democracy) holds 16 of the 75 seats in the Senate.

<sup>2</sup> The parliamentary party of the CDA (Christian Democratic Appeal) holds 11 of the 75 seats in the Senate.