



From: Amnesty International EU Office

To: Ms Karin Gastinger  
Austria Federal Minister for Justice  
President of the Justice and Home Affairs Council

26 April 2006

Dear Ms Gastinger,

**Subject: Proposal for a Council Framework Decision on certain Procedural Rights in criminal proceedings throughout the European Union**

On the eve of the meeting of the JHA Council on 27 and 28 April 2006, Amnesty International and JUSTICE call on the Council to give a new impulse to the negotiations of the proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union.

We welcome the fact that despite considerable discord between Member States on issues such as the legal basis and scope of the proposal, the Presidency is now committed to bringing forward the discussion with a view to the adoption of a legal instrument in line with what the Hague Programme has envisaged. However, we remain concerned that the Council may consider adopting a non-binding resolution stating a general commitment of EU Member States to respect the standards of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). While such a resolution would add little to the debate, we fear that what might be presented as a possible "interim step" could in fact become a convenient "last step" in the context of difficult negotiations.

Our organisations are adamant that a strong, legally binding instrument that adds value to the ECHR and Member States' existing obligations under it, is essential for the advancement of the European Area of Freedom Security and Justice. Having an instrument that sets out the rights that suspects and defendants must be assured of in criminal proceedings throughout the European Union, and one which fleshes out in greater detail the rights under the Convention, is indispensable. It will be a vital step towards making the Convention rights more visible to everyone involved in domestic criminal proceedings – the police, courts, defence lawyers and, most importantly, the defendants themselves.

In order to make the EU a true area of justice and to underpin judicial cooperation among the Member States, what is needed is a Framework Decision that applies to domestic as well as cross-border cases. One that contains a comprehensive set of precise rights set out in a language all EU citizens can understand and that can be invoked in Member States' courts.

Today, terrorism-related cases are a clear example that the limitation of fundamental rights such as the right to a fair trial, is not a theoretical problem in the EU. Our organisations believe that

there is a pressing need for the EU to redress the balance between security-led developments in EU justice and home affairs and measures designed to protect individual rights in this field.

Our organisations urge the Council to live up to the Hague Programme promise "to guarantee fundamental rights, minimum procedural safeguards and access to justice". While we regret that it was not possible to respect the deadline set by the Hague Action Plan, we hope that the forthcoming JHA Council will reaffirm the basis for future work in that direction.

Yours sincerely



Dick Oosting  
Director  
Amnesty International  
EU Office



Roger Smith  
Director  
Justice