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Mutual Recognition of Judgements Rendered *in absentia* PRESS RELEASE

Brussels, September 1st, 2008 – The EP plenary sitting discussed tonight the¹ “*Mutual Recognition of Judgements Rendered in absentia*” report, submitted by Armando Franca, MEP.

Romanian MEP Renate Weber, member of the LIBE Committee, acted as shadow rapporteur for the ALDE Group on this report. Mrs Weber’s position on the matter is below:

“First of all, please allow me to congratulate and thank my colleague, Mr Armando Franca, for his work on this complex and sensitive report that deals with several EU instruments regarding the issue of judgments rendered in absentia.”

The report reflects to the highest extent the need for a new legal basis in the field of recognition of the enforcement of criminal decisions rendered “in absentia”.

It is well known that the procedure in absentia is not recognised in all EU countries. Different national legislation have different approaches to this issue, from a total non-recognition of such judgements to detailed legal procedures dealing with such situations.

However, despite conflicting approaches between our criminal systems, I believe it is important to have a common approach at EU level. For the time being it is clear that the aim is not to harmonise the 27 national legislations, but rather to ensure that decisions rendered by any Member State are enforced by any other Member State.

How can we do this in a manner that respects different domestic legislations?

In my opinion, the main question raised in this report relates to the setting up of a proper balance between defending the rights of the defendant, as enshrined by the European Convention on Human Rights, and the reality and the need of an Area of freedom, security and justice within the European Union.

Since the main goal of this proposal is to promote the application of the principle of mutual recognition, it is normal that effective procedural protection of the defendants, including the right to a fair trial of those convicted in absentia, be considered as minimum standards for the mutual recognition of these judgements. This is why the report aims at offering a definition and certain guarantees for the people concerned. It indicates that it “is therefore necessary to provide clear and common solutions which define the grounds for refusal and the margin of appreciation left to the executing authority.” It is indeed of high importance for the development of a common European criminal policy to have such clear provisions.

I highly appreciate the initiative of the rapporteur to include also another instrument in the scope of the proposal, namely the Framework Decision on the recognition and supervision of

¹ Raportul poate fi citit aici:
<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0285&language=RO&mode=XML>

suspended sentences, alternative sanctions and conditional sentences. This makes this piece of legislation even more complex.

Probably the most sensitive aspect of this report relates to the fact that in some Member States, when judgements are rendered in the absence of the defendant, the solutions offered are different: some countries fully recognise the right to a retrial, thus fully respecting Article 2 of Protocol No. 7 to the European Convention on Human Rights (ECHR) and Article 14 (5) of the ICCPR. Other countries admit only the right to an appeal.

As I said the proposal and this report are not about harmonizing the 27 national legislations. And although I am convinced that in the future we should aim at having a European legislation in line with the international legal texts mentioned above, I believe that for the time being we did our best to ensure that even in an appeal the defendant enjoys the procedural guarantees as provided for by Article 5 and 6 of the European Convention of Human Rights.

Let me conclude by saying that the good functioning of the principle of mutual recognition of judicial decision requires a high level of mutual confidence between the Member States and this confidence must be based on a common observance of human rights and fundamental principles. Otherwise, the idea of a common area of freedom, security and justice in the benefit of the European citizens remains just rhetoric”.