

AMENDMENT FORM

Suggestion for amendment of Article : 15

Suggestion for protocol :

By Mr : Farnleitner

Status : - Member

Chapter 3: Judicial cooperation in criminal matters

Article 15: Judicial cooperation in criminal matters

1. **The Union shall develop judicial** cooperation in criminal matters ~~in the Union shall be based~~ on the principle of mutual recognition of judicial decisions and shall include the approximation of legislation in the areas referred to in Articles [16] and [17].
2. **Judicial decisions within the meaning of this Chapter are in any event decisions of courts or tribunals in the sense of [Article 234 of the Treaty establishing the European Community] or public prosecutors and decisions by other authorities, where the person convicted has the right to have his conviction reviewed by a court or tribunal in the sense of [Article 234 of the Treaty establishing the European Community].**
3. The European Parliament and the Council, in accordance with the legislative procedure, **the Council however acting unanimously**, shall adopt **European** laws and **European** framework laws to:
 - establish rules and procedures for ensuring the recognition **and enforcement** throughout the Union of all forms of judgments and judicial decisions, **taking into account the progress made in the approximation of rules on criminal procedure (Article [16]);**
 - prevent and settle conflicts of jurisdiction between Member States;
 - encourage the training of the judiciary and judicial staff;

- facilitate all other forms of cooperation between ministries and judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

Explanation (if any) :

The insertion in para. 1 as well as the insertion of a reference to enforcement in the first indent of para. 3 are intended to bring the wording into line with the wording of Art. 14.

Member States have different concepts of the notion of “courts”. Material criminal law is not always dealt with by national “courts” in all Member States but in some constellations also by (independent) administrative authorities. It is therefore necessary to have a provision explicitly dealing with the scope of application of this Chapter. The new para 2 makes it clear that „judicial decisions“ are not only decisions by institutions which are called „courts“ by the law of the respective Member State but also decisions of tribunals in the sense of Art. 234 EC-Treaty and decisions of administrative authorities in so far as they can be challenged by tribunals in the sense of Art. 234 EC-Treaty.

As the field of police and judicial cooperation in criminal matters has been dealt with, up to now, in an intergovernmental institutional setting it seems a step too far to foresee majority voting now.

The reference to approximation of rules on criminal procedure in the first indent of para. 3 is intended to make clear that mutual recognition should be based on a certain degree of approximation of rules on criminal procedure, especially to circumvent forum shopping.