

Observations File

SPAIN 1 against THE NETHERLANDS 1

1) Position of Spain : The necessity to add mandatory grounds of refusal to those already listed in article 3 or to transform optional grounds of refusal mentioned in article 4, into mandatory ones

We would like to make some general comment about their formal presentation: we understood at the first words that they had to sustain a difficult position. The small “mise en scène” kept us in suspense through all their presentation. It was dynamic and clear.

Nevertheless, we regretted the lack of a more developed PowerPoint presentation, in order to follow correctly all their arguments.

a. Relevant arguments

We appreciated the general content about the principle of mutual recognition, principle of mutual trust. They sustained that the European Arrest Warrant (EAW) was made for the most serious offences, but with the background they brought, we understand that issuing a EAW in such a case (a shoplifting) could have two types of consequences. Effectively, we liked that their presentation was based on these two aspects: firstly, theoretical because it would infringe individual rights, such as Maria’s freedom of movement; secondly, practical, because of the disproportionate cost regarding to the seriousness of the offence.

We also appreciated that they sustained their arguments in accordance with the report of the European Commission, which illustrates their good preparation work.

b. Debated arguments

The criticism about the rush job on the Framework decision is more questionable. Indeed, we think that the Framework decision was based on a common thought between all Member States at that time.

2) Position of The Netherlands : The actions lead by Member States as to add mandatory grounds of refusal or to transform optional grounds of refusal into mandatory ones, are contrary to the European Arrest Warrant Framework Decision

Their formal presentation was clear, with interesting references on actuality (Nobel Prizes) and a good screen support.

a. Relevant arguments

We agree that Europe is an open area, where not only goods, but also people travel. We also agree as criminal can misuse this openness, some instruments are needed to allow this area to be also an area of Justice.

b. Debated arguments

Their arguments were more based on principle but maybe a little bit outside of the reality of the field. Their debate was not enough centered on what they were asking to debate on.