

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

# POLICY DEPARTMENT **C**

## CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

Justice, Freedom and Security

Gender Equality

Legal and Parliamentary Affairs

Petitions

## TOWARDS THE NEGOTIATION AND ADOPTION OF THE STOCKHOLM PROGRAMME'S SUCCESSOR FOR THE PERIOD 2015-2019

STUDY







**DIRECTORATE-GENERAL FOR INTERNAL POLICIES**

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND  
CONSTITUTIONAL AFFAIRS**

**CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

# **TOWARDS THE NEGOTIATION AND ADOPTION OF THE STOCKHOLM PROGRAMME'S SUCCESSOR FOR THE PERIOD 2015-2019**

**STUDY**

## **Summary**

The mid-term evaluation of the Stockholm Programme has revealed the number of imbalances which blight its implementation, despite some concrete achievements. Serious doubts remain about the EU's ability to guarantee the rule of law and handle crises. The evaluation highlights the challenges that will be faced by any future programme in the field of freedom, security and justice, which include political challenges (ensuring the effective protection of fundamental rights, in particular personal data protection, and putting into practice the constitutional principle of solidarity); institutional challenges (ensuring that the European Parliament is accepted as a fully-fledged partner when programming for the area of freedom, security and justice) and technical challenges (building a culture of ex-post outcome evaluation in the field of justice and home affairs). All of these factors provide ample justification for the adoption of a new programme which will take its place alongside Tampere, Hague and Stockholm.

This study was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE).

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## SUMMARY

The mid-term evaluation of the Stockholm Programme is a good opportunity to evaluate the initial outcomes of the Treaty of Lisbon, since it clearly highlights the imbalances which characterise the area of freedom, security and justice:

- an imbalance between freedom and security, due firstly to the discrepancy between the rules in place to protect individuals and their implementation in practice and secondly to the backlog in adopting personal data protection standards;
- an imbalance between justice and security due to the absence of a genuine European judicial area in spite of the adoption of the Internal Security Strategy;
- an imbalance between harmonisation and operationalisation due to a regulatory gap despite a proliferation of agencies and policy instruments;
- an imbalance between Member States within the AFSJ framework, which has been fragmented due to the failure on the part of the Mediterranean countries to prioritise geopolitical issues and the preferential use of 'opt-outs' by certain Member States;
- an imbalance between the management of legal immigration, which is stagnating despite the low targets set in this area, and the fight against illegal immigration, which is progressing well with plans for major investments in databases;
- an imbalance between the internal and external dimensions of European policies due to the failure of the Treaty of Lisbon to clarify an institutional landscape which remains complex and contentious.

The picture is not all bleak, of course, and there have been a number of concrete successes which deserve to be highlighted:

- the adoption of the asylum package in a difficult climate, which was a major step towards more harmonised legislation in the Member States;
- the increasingly operational nature of European policies as a result of agencies being strengthened (Frontex) or established (European Asylum Support Office, Agency for large-scale IT systems in the AFSJ) even though the 'Lisbonisation' of Europol and Eurojust is still overdue, and due to the emergence of practical e-justice models and the adaptation of tools to fight drugs and terrorism, although work remains to be done in the fields of data protection and information sharing in the fight against serious crime;
- progress has been made in building the mutual trust between Member States which is essential for mutual recognition, in some cases on the basis of national initiatives such as those concerning the protection of individuals;
- the backlog in the area of civil judicial cooperation has been cleared and progress in this area is likely to continue, with a large number of initiatives close to adoption;
- procedural rights in criminal proceedings are among the main achievements of the Stockholm Programme, despite the piecemeal approach adopted after the failure of the global approach;



- the approximation of substantive criminal law has found its footing with the 'Lisbonisation' of previous framework decisions and the opening up of new fields of work, despite the extreme political sensitivity of this issue for the Member States.

Major concerns remain, however. The first relates to guarantees for the rule of law, given that the controversy surrounding the constitutional reforms in Hungary proved that the EU does not have the necessary tools to force Member States to respect its fundamental values. The EU's capacity to handle crises is a second matter of concern: the collapse of the asylum system and external border checks in Greece has revealed the ineffectiveness of the existing evaluation mechanisms, while the European Asylum Support Office has failed to leverage the humanitarian tragedy of the Syrian refugees to assert its position. These two crises also testify to the lack of solidarity between Member States.

The evaluation suggests that the future programme will be faced with challenges in three areas:

- political challenges: although fundamental rights protection does not fall solely under the heading of justice and home affairs, it remains of vital importance in this area, particularly as regards the protection of personal data at a time when the PRISM scandal is testing the EU's capacity to respond. Although the Treaty of Lisbon made solidarity one of the constitutional principles of the area of freedom, security and justice, this has meant little in practice; even though the operational dimension of solidarity is starting to take shape, its financial dimension will remain glaringly inadequate under the 2014-2020 financial perspective.
- institutional challenges: the Treaty of Lisbon conferred a central role on the European Council, which must agree to involve Parliament in AFSJ programming in line with the principle of cooperation in good faith between the institutions. As a minimum, this involves postponing the adoption of the next programme until after the June 2014 elections to allow the involvement of the newly elected institutions.
- technical challenges: there has been a decline in the ex-post evaluation of AFSJ policies following the failure of the Commission's 2006 proposal; the scoreboard may only have been a descriptive tool, but it has now vanished entirely. The culture within DG Home Affairs needs to change in response to the problem of Member State monitoring by the Commission; a significant body of legislation has been adopted over the past decade and more, and DG Home Affairs now needs to ensure that it is applied effectively by initiating non-compliance proceedings.

The extreme reluctance of the Member States to engage in evaluation activities means that a genuine programme is needed if they are to be persuaded or indeed forced to provide the necessary accountability in this area, quite apart from the fact that whole swathes of the area of freedom, security and justice remain untouched. Despite general scepticism, the era of programmes is not yet over: even if it proves to be less detailed than the Hague and Stockholm Programmes and to have more in common with Tampere, the strategic guidelines of the next legislative and operational programme will be of decisive importance for future progress in the area of freedom, security and justice.

## INTRODUCTION

AFSJ programming has a history as old as the area itself. The first major programming document, the Vienna Action Plan<sup>1</sup> drawn up after the Cardiff Council, largely anticipated the provisions of the Treaty of Amsterdam, in a similar fashion to the Stockholm Programme and the Treaty of Lisbon.

Although the five-year Tampere and Hague programmes which followed had varying degrees of success, returning to these programmes helps to shed useful light on the mid-term evaluation of the Stockholm Programme<sup>2</sup>. Adopted as a follow-up to the first European Council devoted exclusively to the issue, there is no disputing the fact that Tampere was the founding act of the AFSJ, not only because it was backed by a strong political will on the part of the Member States with the Commission as their mouthpiece, but also because it derived from a sense of urgency stemming from the deadlines set by the Treaty itself and only heightened by the attacks of 9/11. This resulted in the heavy involvement of the then Commissioner based on an original method of monitoring using a bi-annual 'scoreboard'. This approach aroused a great deal of interest, particularly in the European Parliament which had few legislative powers at the time, and this interest has not subsequently diminished. The Hague Programme was the outcome of a different procedure, in which management of the programming process prevailed over political initiative. This second programme was adopted at a time of crisis, characterised by the prioritisation of security concerns and questions regarding the limits of the European integration process.

A new model was chosen for the Stockholm Programme presented in 2009, which was somewhat reminiscent of the Tampere approach since the Stockholm Programme was also adopted at the same time as the entry into force of a new institutional framework expected to have decisive consequences for the AFSJ. The first challenge faced by the Stockholm Programme was in fact to incorporate the EU's AFSJ programming work into the new framework enshrined by the Treaty of Lisbon. The main substantive innovation of the new treaties was Title V TFEU and its normalisation of JHA issues, which put an immediate end to a debate lasting a quarter of a century. The Treaty's provisions have significant implications for AFSJ policies, and it is striking that so little evidence of this can be seen in the design and implementation of the Programme.

Examples of provisions in the field of AFSJ include the conferral of a full legislative role on the European Parliament, the division of the Commission into two separate portfolios<sup>3</sup>, the restoration of the ECJ's competences following a transitional period, the emphasis placed on evaluation and the national parliaments and the forecasts in respect of agencies including in particular Europol and Eurojust, without even mentioning the Charter of Fundamental Rights.

This new institutional context thus represented one of the main challenges facing the Stockholm Programme, and the reshuffle was an opportunity to relaunch an AFSJ implementation process which had run out of steam somewhat and come up against criticism. One of the open questions was whether the EU would be able to overcome this

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<sup>1</sup> Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice – text adopted by the Justice and Home Affairs Council of 3 December 1998 (OJ C 19, 23.1.1999, p. 1).

<sup>2</sup> OJ C 115, 4.5.2010, p. 1.

<sup>3</sup> Where the term 'Home Affairs' interestingly appears in relation to the 'Justice' portfolio without ever having been used before in the debates on the drafting of the Treaties or during the Convention.

challenge; now that the Programme has reached its mid-term point, the answer would appear to be no.

More or less everything remains as it was, as though the third pillar had never been abolished; it would be easy to believe that Protocol 36 on provisional measures applied to the AFSJ as a whole. The Programme's design and implementation appear to be based on an unchanged institutional framework, which is at the very least a source of considerable disappointment. Five years after the entry into force of the Treaty of Lisbon, whole swathes of the latter are still effectively a dead letter due to the lack of appropriate initiatives, and some have been openly written off. The choice to push ahead with the establishment of a European Public Prosecutor before Eurojust had been brought up to speed, even though the Treaties themselves stipulate that the Prosecutor should be established 'on the basis' of this agency, is a good example of this attitude.

Yet the existence of specific legal bases which provide a framework for AFSJ planning and evaluation, namely Articles 68 and 70 TFEU, gives grounds for hoping that a more rational approach will prevail. There are a number of likely explanations for the problems which have arisen; leaving the political context to one side, the methodological choices made when the Programme was initially drafted shed light on some of these issues.

The option chosen at the time – more out of a concern for administrative and political marketing than for effectiveness – was to sketch out extremely broad 'political priorities', with the stated objective of '[putting] citizens at the heart of Europe'. Quite apart from the fact that this ambition is not specific to Title V TFEU and instead underlies all of the EU's activities, the approach gave rise to more problems than it solved, and the severity of this lack of methodological rigour has been revealed by the mid-term evaluation of the Stockholm Programme.

In the first place, this political choice diluted the specific nature and autonomy of a project focusing on the construction of the AFSJ, as evidenced by the number of special institutional features established by the authors of the Treaties, and incorporating issues into the Programme which are no doubt of fundamental importance but which are in no way specific to the AFSJ results in a lack of coherence. There can be no question that support for victims or vulnerable persons is just as much a part of the Programme as the fight against racism and xenophobia, and Article 67 TFEU is evidence of this. Yet this is not the case for anti-discrimination measures, data protection, the transparency of documents or the promotion of equal opportunities, the legal bases for which lie outside Title V TFEU. This political 'interference' stands in contrast to the structure of the Stockholm Programme's predecessor (the Hague Programme), whose provisions were more clearly focused on the main objective to be achieved.

Secondly, the above choice meant that the key issues were not highlighted at a time when the AFSJ was emerging as one of the major European policy areas. A clear and transparent roadmap for the EU, laid down chapter by chapter, article by article and legal basis by legal basis, would have both stipulated the objectives to be achieved and subsequently made it easier to evaluate the implementation of each measure. Taking this approach and following in the footsteps of the former scoreboards would not have been a complex task given the methodical structure of Title V TFEU, yet it would have entailed the risk of revealing the shortcomings and political uncertainty of some of the players involved.

Finally, opting for a proliferation of priorities and chaos superficially structured by a reference to citizenship provided no framework for the work to be done. Any attempt at

rigour would reveal the inadvisability of launching into new fields of work before starting on those which the Treaties explicitly assign to the institutions<sup>4</sup>.

A mid-term evaluation of the Programme is therefore a difficult exercise, firstly due to its intrinsic shortcomings but also and in particular because of state and institutional strategies which have marked a real step backwards from the general attitude prevailing in the era of the now-defunct 'scoreboard'.

The Council must be given credit for having shouldered its responsibilities in this respect given that it published something resembling a mid-term evaluation on 13 November 2012<sup>5</sup> under the Cypriot Presidency. It is of course true that the Programme itself made provision for the meeting<sup>6</sup>, but the issue of 'evaluation' was so sensitive at the time<sup>7</sup> that it would not have been at all surprising if the meeting had been cancelled.

It went ahead, but was not received enthusiastically. This was undoubtedly due in part to the fact that the document was not accompanied by the necessary in-depth reflections on the programming permitted under Article 68 TFEU if it complies with the principle of loyal interinstitutional cooperation, and secondly because the interim results did not bode well. Evidence of this can be seen in the two brief letters, accompanied by hastily drawn-up tables, with which each of the Commissioners in charge of the dossier acknowledged receipt of the Council's document. Paradoxically, even though an evaluation was always planned for the mid-term point of the Programme, the data supplied make it relatively difficult for the general public to gain an accurate idea of what has been achieved, if only in quantitative terms.

The main documents listed<sup>8</sup> can be used to produce a non-exhaustive but broadly representative quantified review of progress made in implementing the Programme, with its seven political priorities used as criteria for classification. Legislative and non-legislative measures can then be identified for each of these priorities, as well as any texts adopted on the basis of the legislative measures<sup>9</sup>.

In general terms, around 214 documents were included in the review of the Programme's implementation, including 112 legislative proposals, three of which were initiated by the Member States and which led to the adoption of 43 texts of greatly varying nature and value.

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<sup>4</sup> The differences of opinion between the Council and the Commission in this respect became clear with the publication of the Commission's Action Plan Implementing the Stockholm Programme, with the Council forced to reiterate that the Commission should adhere strictly to the Programme.

<sup>5</sup> Doc. 15921/12.

<sup>6</sup> Point 1.2.11.

<sup>7</sup> With the Schengen governance dossier.

<sup>8</sup> See the annex to this report.

<sup>9</sup> Given that the JHA Council of 6 and 7 June 2013 reached agreement on a significant number of issues.

	Number of documents	Number of legislative proposals	Number of texts adopted
<b><u>Priority 1</u></b> Towards a citizens' Europe in the AFSJ	6	3	0
<b><u>Priority 2</u></b> Promoting citizens' rights: a Europe of rights	34	12	4
<b><u>Priority 3</u></b> Making people's lives easier: a Europe of law and justice	38	22	9
<b><u>Priority 4</u></b> A Europe that protects	46	22	7
<b><u>Priority 5</u></b> Access to Europe in a globalised world	42	26	11
<b><u>Priority 6</u></b> A Europe of responsibility, solidarity and partnership in migration and asylum matters	36	16	6
<b><u>Priority 7</u></b> Europe in a globalised world	12	11	6
<b><i>TOTAL</i></b>	214	112	43

Above and beyond these figures, the current situation in the EU sheds a pessimistic light on all of these issues. The unexpected inclusion of paragraph 21<sup>10</sup> in the conclusions of the European Council of 26-27 June 2013 raised questions about the future of programming as an instrument for implementing the AFSJ. The Council's desire to move ahead at a rapid pace with the definition of the Stockholm Programme's successor, in spite of the fact that the European Parliament elections and the reappointment of the Commission are looming on the horizon, is evidence of how little it values the partners with which it must collaborate to implement the Programme. Unless, of course, it is drawing the necessary conclusions from the unsatisfactory conditions in which the current Programme has been implemented.

<sup>10</sup> Paragraph 21: 'The European Council will hold a discussion at its June 2014 meeting to define strategic guidelines for legislative and operational planning in the area of freedom, security and justice (pursuant to Article 68 TFEU). In preparation for that meeting, the incoming Presidencies are invited to begin a process of reflection within the Council. The Commission is invited to present appropriate contributions to this process'.

## 1. EVALUATION OF THE STOCKHOLM PROGRAMME

A number of the political declarations in the Stockholm Programme have failed to move beyond theoretical rhetoric. At its mid-term point, the Programme has not eliminated the imbalances which have affected the area of JHA since its inception (1), despite a number of concrete successes (2), and a number of questions have been raised as a result (3).

### 1.1. Persistent imbalances

Often falling under the Programme's 'political priorities'<sup>11</sup>, structural imbalances have had a long-lasting impact on its implementation.

#### 1.1.1. Imbalances between freedom and security

The EU's successive programmes of work have consistently been aimed at establishing a balance between these two key goals of the area of freedom, by way of the 'coherent strategy' explicitly demanded by Parliament in 2009<sup>12</sup>.

The legitimate desire to protect citizens' security, for example by means of external border controls, was not counterbalanced clearly enough under the Stockholm Programme by higher standards in the area of individual rights protection. A large number of dossiers could be cited as evidence of this persistent gap between the political objective of a 'Europe which protects' and that of a 'Europe of rights', despite the significant progress made with legislation on the vulnerability of certain groups of people, victim protection or the rights of defendants, for example. The fight against terrorism and the potentially resulting discrimination against third-country nationals, the protection of personal data in the face of a proliferation of automatic data transfer mechanisms and the treatment of asylum seekers in certain Member States are ample illustrations of the need to step up the EU's work in this area.

The Programme's declaration that all of the EU's actions should be 'centred' on the citizen has not yet therefore been reflected in practice and the 'challenge' of ensuring the EU's security while respecting fundamental rights remains to be overcome. It would appear that the EU failed to seize the 'opportunity' pointed out to it at the time by the Agency for Fundamental Rights<sup>13</sup>.

In this respect, the recent remarks by the UN's Special Rapporteur on the Human Rights of Migrants in respect of the EU's migration policy<sup>14</sup> are worthy of particular attention. The Rapporteur does admittedly note that the Stockholm Programme 'has taken some important strides forward in terms of incorporation of human rights into migration policy' (paragraph 27) and its report welcomes the Global Approach to Migration and Mobility as an overarching policy document which facilitates this.

However, the Rapporteur goes into great detail about the 'major shortcomings regarding the effective protection of migrants' rights', using particularly tough language: 'irregular migrations remains largely viewed as a security concern that must be stopped. This is

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<sup>11</sup> Stockholm Programme, 'Towards a Europe of citizens in the field of freedom, security and justice', Point 1.1 Political priorities: promoting fundamental rights and citizenship; a Europe of law and justice; a Europe that protects; access to Europe in a globalised world; a Europe of responsibility, solidarity and partnership in migration and asylum matters; Europe in a globalised world.

<sup>12</sup> European Parliament resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm Programme.

<sup>13</sup> FRA, The Stockholm Programme: A chance to put fundamental rights protection right in the centre of the European Agenda.

<sup>14</sup> NU, AG, 23<sup>rd</sup> session of the Human Rights Council, Report of the Special Rapporteur on the human rights of migrants, F. Crépeau, 24 April 2013, A/HRC/23/46.



fundamentally at odds with a human rights approach, concerning the conceptualisation of migrants as individuals and equal holders of human rights.' (paragraph 31). The resulting stigmatisation of irregular migrants and the tackling of migratory phenomena primarily from a security point of view are therefore problematic. The Global Approach to Migration and Mobility confirms this imbalance despite the laudable intentions which accompanied its inception, although it would be useful to analyse the content and implementation of the Mobility Partnership concluded in spring 2013 with Morocco<sup>15</sup>, a key country in terms of migration and one with which cooperation has been problematic in the past due to the EU's overly unilateral approach, in order to establish whether this could be a positive turning point towards a genuine partnership between the EU and third countries in the area of migration management.

The appointment of an independent Fundamental Rights Office (FRO) and a civil society platform ensuring a genuine role for human rights defence organisations and the adoption of an internal strategy on fundamental rights and a code of conduct for everyone involved in Frontex's activities are promising mechanisms which should help to close the gap between rules and practice in future, and allow Frontex to make up for its previous lack of attention to migrants' fundamental rights. By way of contrast, the implementation of visa policy by the consulates in the Schengen countries is still disproportionately skewed by the fight against illegal immigration, as proven by their reluctance to issue multiple-entry visas for up to five years, and solutions to this problem of red tape still remain to be found at a time when the European Union is becoming aware of the links between visa policy on the one hand and economic growth and the tourism industry on the other, as was eloquently pointed out by the Commission in its Communication of 7 November 2012<sup>16</sup>.

Efforts must also be stepped up as regards the judicial protection of individuals, including in connection with the international texts to which the EU is party. The dossier on ECHR accession has not yet been closed, whereas the feasibility of the EU's possible accession to the Geneva Convention has not even been examined. It is still hard to predict the practical consequences of the former, and it is in any case doubtful whether any genuine progress will be made as a result from the individual's point of view.

In the majority of cases, the main problem inherent to the judicial protection of fundamental rights in the EU is the fact that the issue is ignored in texts as significant as Framework Decision 2002/854 on the European Arrest Warrant due to a failure to obtain a consensus between Member States. The Court of Justice has attempted to overcome this problem to the extent of its capabilities<sup>17</sup>.

The same is also true for the protection of individual rights in an information society, which also falls under the Programme's 'political priorities' and which will be examined below. The 'exponential growth' of digital data on citizens as a result of technological progress was the subject of a cautionary statement from the European Data Protection Supervisor<sup>18</sup>. The delay in adopting proposals for regulations on general data protection issues, on the fight against crime and with third countries remains a source of concern, as it is a symptom of the EU's inability to establish a European data protection model despite the conclusion of far-reaching external agreements, such as the PNR agreements, which call for such a guarantee.

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<sup>15</sup> Council doc. 6139/13.

<sup>16</sup> COM(2012)649.

<sup>17</sup> ECJ, 30 May 2013, F., C-168/13 PPU.

<sup>18</sup> Opinion of the European Data Protection Supervisor on the Communication from the Commission to the European Parliament and the Council on an area of freedom, security and justice serving the citizen, OJ C 276, 17.11.2009, p. 8.

Finally, the political priority involving the 'promotion of citizenship and fundamental rights' has evidently not been achieved as far as the legal situation of the Roma in the EU is concerned, both as regards their free movement within the AFSJ and their status in a number of Member States<sup>19</sup>. The 2012 report by the Agency for Fundamental Rights again emphasised the enduring discrimination suffered by this group in terms of accommodation, education and access to healthcare<sup>20</sup>. In this respect, it would be a good idea to implement Article 10 of Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, which provides for the text to be reviewed in 2013.

The issue of its 'full implementation' in an area open to everyone raises interesting questions about the obstacles which still stand in the way of the free movement of European citizens. This restrictive attitude is consistent with the deep-rooted tendencies of a number of Member States, which took concrete form during the JHA Council held in June 2013 when four interior ministers submitted a written statement to the Council on what they believed to be 'abuses' of the right to freedom of movement.

### **1.1.2. Imbalances between justice and security**

One of the most visible outcomes of the EU's actions in this area has been the Internal Security Strategy adopted in 2010. This Strategy aims to guarantee the coherence and complementarity of the EU's internal and external actions, and focuses on the implementation of a variety of instruments with varying scope. It seeks to bring the EU's security priorities into line with national approaches, in particular by defining a 'political cycle' for the fight against serious organised crime (OCTA). The EU's actions can therefore be split into three phases: political, strategic and operational.

As regards the political and strategic phases, the adoption of the ISS and its management within the Council and the Standing Committee on Operational Cooperation on Internal Security (COSI) stands in contrast with the previous approaches in the area of internal law, which placed great emphasis on public debate at parliamentary level. It cannot act as a replacement for what the EU is currently lacking, namely the open and transparent definition of a genuine criminal policy in which the European and national parliamentary institutions act as partners. The ISS also incorporates areas such as the management of the EU's external borders which should not be tackled exclusively from the point of view of security. Finally, as shown by the PRISM case, it provides *a priori* legitimisation for a use of means and setting aside of principles which would otherwise be impossible to ignore.

By assuming the existence of a substantive agreement between the Member States which is still a long way off, and although it purports to strengthen mutual trust within the EU, what this essentially technocratic approach actually does is to turn the clock back to a time when the national players in the Member States were still highly reluctant to tackle problems using solutions they had not developed themselves.

The AFSJ as a whole is in fact characterised by the lack of any real judicial dimension in spite of the significant progress which has been made, given the absence of a European criminal jurisdiction or specialised chambers within the ECJ and the lack of involvement of national judges. This shortcoming has mainly benefited the area of police action, in terms of both concrete measures and financial resources. Even though judges nowadays play a leading role within the EU in the fight against crime, as can be seen from Eurojust, the absence of any real cross-sectoral cooperation makes it impossible for them to move

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<sup>19</sup> Cf. COM(2011)173 of 5 April 2011, EU Framework for National Roma Integration Strategies up to 2020.

<sup>20</sup> EU Agency for Fundamental Rights, 2012 Report, 'Fundamental rights: challenges and achievements in 2010', p. 214 ff.



beyond the confines of their strictly horizontal role by becoming actively involved in the definition of an EU criminal policy.

### **1.1.3. Imbalances between legislative harmonisation and an operational approach**

The regulatory review of the implementation of the Stockholm Programme reveals varying outcomes for the EU's different fields of action. The quantitative results are relatively poor given that only around 20 texts had been adopted at the mid-term point, with the notable exception of the 'asylum package'.

This in itself is a source of concern, albeit with certain qualifications. Two different situations can be distinguished: the first is where genuine progress is made with EU legislation, and the second is where there is simply a need to revise current legislation. A number of texts from the 'first generation' of the AFSJ made express provision for their later revision, either to eliminate substantive defects arising in connection with the original negotiations or to bring them into line with the Treaty of Lisbon, with the latter sometimes making specific reference to areas such as Eurojust and Europol.

The regulatory gap varies in the different sectors. As far as asylum is concerned, completion of the legislative process will significantly improve the situation of those seeking international protection. This is also true for the area of civil judicial cooperation, which has long been the poor relative of the AFSJ, but is now a fully fledged component of the regulatory process since the communitarisation of the Brussels Convention.

However the quantitative situation is far from comparable for both legal immigration and EU border controls due to political and technical blockages. The same is also true for the short-stay visa policy; despite legislative unification based on the adoption of a genuine Community visa code<sup>21</sup>, the policy continues to suffer from major inconsistencies in its implementation by the Schengen consulates, and the weakness or complete absence of local consular cooperation in too many third countries prevents it being used to overcome this problem. The area of law-enforcement cooperation has also come to a standstill despite a number of successes. It suffers mainly from the priority given to mutual trust and the mistaken belief it propagates that mutual recognition is an alternative to legislative harmonisation.

The 'roadmap' dossier on the procedural rights of suspects is a symptom of this reluctance on the part of Member States to enter into legally binding commitments at EU level, even though they are bound by the same commitments under ECHR case-law. Questions can also be asked about the lack of innovative proposals in key priority sectors such as financial crime, the fight against corruption and the protection of the EU's financial interests and exchanges of information, and the fact that these issues have been passed over means that the results for this area are disappointing.

Above and beyond these quantitative findings, the fact that the EU has preferred an operational approach to a regulatory approach is a typical characteristic of the AFSJ. The creation of 'soft law' consisting of various 'strategies', 'programmes' and 'roadmaps' in order to regulate migratory phenomena or fight crime is a good example of this phenomenon, which fits in with the proliferation of agencies which are often tasked with creating and managing these instruments. The attractiveness of the AFSJ as a hotbed for their development is only equalled by the EU's interest in instruments based on new technologies.

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<sup>21</sup> Regulation (EC) No 810/2009.

This can have negative as well as positive implications, since it can result in 'networking' which may be understandable from the point of view of rationality and efficiency but which is indisputably harmful to transparency and democratic control. Agencies involved in work under the aegis of COSI are given powers which go beyond those of the parliamentary institutions.

#### **1.1.4. Imbalances between the Member States**

The fragmentation of the AFSJ has not diminished during implementation of the Stockholm Programme, to the point that it is now a major source of concern in respect of the coherence of the EU. This is true both as regards management of the Schengen area (Bulgaria and Romania) and the United Kingdom's announcement that it will make use of a general opt-out for judicial cooperation in criminal matters.

Geographical factors and the situation of certain Member States along the EU's external borders represent the primary causes of these imbalances, and the Stockholm Programme has failed to resolve these latter with its voluntary policy of applying the solidarity clause referred to in Article 222 TFEU (see below), not to mention Article 80 TFEU which refers to the importance of this solidarity for the AFSJ. This can sometimes result in an untenable situation, firstly for the Member States in question, in particular those in the Mediterranean Basin and especially Greece, but also and in particular for the individuals concerned, who are subject to serious violations of fundamental rights. This situation has been strongly criticised by bodies ranging from the ECHR to the UN Rapporteur, and yet neither the Member States nor the Commission appear to have genuinely got to grips with a problem which is aggravated by the economic situation in the relevant country.

The second source of imbalances is political in nature, and results from the decision by certain Member States to remove themselves from the Community regime or a majority with to keep certain Member States at a distance.

The UK's opt-out and the likelihood that this Member State will withdraw from a substantial part of the AFSJ *acquis* at the end of the transitional period in 2014 represents the taking up of an opportunity provided by the Treaties themselves and the Protocol on Transitional Measures. The impact which this would have, in particular on the EU's security policies, goes without saying. On the other hand, and although this argument is heard less frequently, a withdrawal of this kind would have equally serious implications in terms of non-discrimination against EU citizens. UK citizens would be deprived of a number of security guarantees such as judicial protection at EU level, which would be a considerable step back of a kind not yet seen in the EU.

Similarly and in general terms, the variable geometry which still governs certain areas of the AFSJ in the field of migration and border controls has implications for the definition and management of their external dimension. The areas covered by the UK and Irish opt-outs, the involvement of Schengen 'associated countries' and the 'international' participation of Denmark make it extremely difficult to implement this policy and results in a very specific definition of the term 'Member State', for example as regards visa agreements. There is also the fact that these opt-outs will mean that the United Kingdom will still be bound by the Qualification Directives, asylum procedures and first-generation conditions of reception in the field of asylum and Ireland will still be bound by the last directive, when all of the other Member States will be applying the second generation of standards which have just been adopted.

Finally, the opposition of certain Member States to the inclusion of Bulgaria and Romania in the Schengen area is also a source of concern. As was the case for the crisis triggered

by the Arab Spring and the threatened re-establishment of national controls at internal borders, the threat to the 'full exercise of the right to free movement' in a common area (Point 2.2) represents a step backwards.

#### **1.1.5. Imbalances between the management of legal immigration and the fight against illegal immigration**

The image of Fortress Europe conjured up by the EU's desire to fight illegal immigration as effectively as possible against the ever increasing resources it intends to earmark for this purpose as evidenced by the major new initiatives (Eurosur, Entry-Exit system) which build on existing mechanisms (in particular Frontex), has not been offset by the reopening of legal immigration channels at European level, not to mention the excessive rigidity of the above-mentioned short-stay visa policy.

Despite the low targets set in this area, the Commission's Action Plan on Legal Immigration, which dates back to 2005<sup>22</sup>, has not yet been implemented by the Member States within the Council. Two initiatives are still pending before the Council, despite having been tabled by the Commission in 2010.

The first is a proposal for a directive establishing the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer<sup>23</sup>. Agreement has still not been reached on this proposal, even though it ties in with the 2020 Strategy by promoting a knowledge society and innovation and would only affect around 16 500 people per year. The second proposal, on conditions of entry and residence for third-country seasonal workers<sup>24</sup> has suffered the same fate. The Member States' inability to agree on these small-scale proposals within the Council and their bogging down in technical discussions due to a lack of political leadership bodes ill for the EU's ability to overcome the major challenges it will face in the future in respect of legal immigration.

#### **1.1.6. Imbalances between the internal and external dimensions of European policies**

The link between the external and internal dimensions of the AFSJ was established by Tampere<sup>25</sup> and elaborated on in 2005 in the Strategy on the external dimension of the AFSJ<sup>26</sup>. It should come as no surprise that the Stockholm Programme refers to this dimension as 'essential'<sup>27</sup> and devotes lengthy provisions – all of Point 7 – to 'a reinforced external dimension'<sup>28</sup>, which adheres to previously defined principles. It is worth looking at these principles in detail in order to evaluate the EU's achievements in this respect.

The unity of the EU's external policy<sup>29</sup> entails mobilising the efforts of the Member States and the EU as well as the instruments available to them, with a particular emphasis on the exchange of information, partnership and solidarity. The Stockholm Programme rightly emphasises the added value provided by the new framework of the Treaty of Lisbon, with the establishment of the post of High Representative and the European External Action Service and the potential of the EU's delegations in the field of justice and home affairs.

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<sup>22</sup> COM(2005)669 of 21.12.05.

<sup>23</sup> COM(2010)378 of 13.7.10.

<sup>24</sup> COM(2010)379 of 13.7.10.

<sup>25</sup> Point 1.1.

<sup>26</sup> COM(2005)491.

<sup>27</sup> Point 1.

<sup>28</sup> Point 7.1.

<sup>29</sup> This sometimes results in the CFSP taking precedence over JHA concerns, as remarked by the Court in relation to the fight against terrorism in case C-130/10

Yet there is no getting away from the fact that the EU is a long way from achieving this objective, and the problems it faces in this area date back to Tampere.

The first of these problems relates to the institutional challenges posed by the judicial framework for the external dimension of JHA, which remains a major source of difficulties, as noted by Parliament back in 2007<sup>30</sup>, and can also result in conflicts of leadership or a failure to assume responsibility. The overall result is a highly complex landscape in which the competences implicitly deemed to be held by the EU and the Member States are supposed to coexist. The uncertainty over the precise role played by the European External Action Service (EEAS) in the field of JHA and the increasing power of the agencies<sup>31</sup> further obscure the picture. The latter have all been given the authority to negotiate with third countries, although this entails the risk of provoking criticism from the Member States or Parliament when it comes to issues as sensitive as exchanges of information, as was the case with Europol.

The second problem is that the substantive priorities outlined in 2005 have not been updated or evaluated, while the trafficking of human beings and illegal immigration have been added to the long list of issues tackled by the Programme.

The new institutional framework provided by the Treaty of Lisbon has not visibly speeded up progress, and the Council issued a reminder to the Commission concerning the area of civil rights<sup>32</sup>. The EU continues to prefer to include AFSJ clauses in broader cooperation agreements, which trivialises JHA issues. The effectiveness of these clauses is questionable since third countries have many other priorities, and the idea of attaching conditionality requirements to these clauses has been abandoned. On the other hand, the conclusion of bilateral or multilateral agreements devoted solely to JHA issues at least has the benefit of ensuring their visibility, even if it also reveals their political sensitivity, as was the case with the PNR agreements or agreements on the fight against terrorism.

Finally, there have been few changes in geographical priorities, and the emphasis of the Programme has been on the EU's Neighbourhood Policy. The Council called for the development 'before the end of 2010' of a plan on how to take cooperation with the Eastern Partnership countries forward, 'comprising freedom, security and justice aspects of the Eastern Partnership'.

## **1.2. Concrete successes**

### **1.2.1. Adoption of the asylum package**

There can be no question that the adoption in the first half of 2013 of a package of second-generation regulations on asylum was a step forward on the long road towards implementation of the common European asylum system provided for by the Treaty of Lisbon. Although the initial deadline was put back from 2010 to 2012, the adoption of a legislative package of such significance<sup>33</sup> and with such clear financial implications during the current crisis serves as confirmation of the fact that the European Union continues to pursue ambitious goals in the area of asylum policy, all the more so because the negotiations lasted a whole five years and were not without their difficulties. A package

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<sup>30</sup> European Parliament resolution of 21 June 2007 on an area of freedom, security and justice: Strategy on the external dimension, Action Plan implementing the Hague programme (2006/2111(INI)).

<sup>31</sup> Cf. for example the proposal for a decision amending Decision 2009/935/JHA determining the list of third States and organisations with which Europol shall conclude agreements (doc. 16229/2012).

<sup>32</sup> Doc. 15921/12 p. 9.

<sup>33</sup> These two regulations (Dublin III and Eurodac) and two directives (conditions of reception and asylum procedures) all bear the date of 26 June 2013 and were published in the Official Journal of 29 June 2013 (L180), with the exception of the Qualification Directive of 13 December 2011 (OJ L 337, 20/12/2011, p. 9).

deal was finally concluded between Parliament and the Council in a manner reminiscent of the procedure followed for the first generation of regulations, when the most challenging directive (asylum procedures) was adopted last on the basis of a modified Commission proposal.

Having taken stock of the progress made, the field is now open for opponents and supporters and pessimists and optimists to hold their traditional debates. It is hardly surprising that observers will take up different positions depending on their institutional affiliations, but major progress has indeed been made towards greater legislative harmonisation of the asylum laws of the Member States, as noted by the UN High Commissioner for Refugees<sup>34</sup>.

It is still the case that the objective set out in the Stockholm Programme, namely that 'similar cases should be treated alike and result in the same outcome', is far from being achieved, and much remains to be done in addition to legislative harmonisation in order to achieve it<sup>35</sup>.

### **1.2.2. Operationalisation of policies**

The operationalisation of policies has been a priority of various EU action plans since their inception, and takes two main forms; the first is the development of the agencies, whereas the second is the adoption of concrete measures available to people working on the ground.

#### **1.2.2.1. The role of the agencies**

The role played by the agencies has expanded during the period under examination, even though the institutional and substantive upgrading of these players has not always been accomplished satisfactorily, despite the undertakings made under the Programme.

In this respect, one of the major shortcomings of the Programme's implementation is that Article 85 and 88 TFEU on Europol and Eurojust have still not been translated into action, four years after the entry into force of the Treaty of Lisbon.

'Lisbonising' the status of these two major players in the AFSJ in respect of their 'structure, operation, field of action and tasks' should have been an absolute priority for the EU before it started work on other dossiers such as the appointment of a European Public Prosecutor, announced for the end of the year. Yet it was not until 27 March 2013 that the Commission tabled a proposal<sup>36</sup> on the establishment of a 'European Union Agency for Law Enforcement Cooperation and Training' based on Europol and merging the European Police Office with the European Police College (Cepol). No formal proposal on Eurojust has been tabled yet.

By way of contrast, action has been taken to establish a European Agency for the operational management of large-scale information systems within the AFSJ<sup>37</sup>. This Agency will be tasked with the operational management of SIS II (Regulation 19872/2006 and Decision 2007/533/JHA), the VIS (Regulation 767/2008) and Eurodac. It will also be responsible for the management of all other future AFSJ information systems, on the basis of a reasoned decision by the Council and the European Parliament.

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<sup>34</sup> <http://www.unhcr.org/51b7348c9.html>

<sup>35</sup> Point 6.2. of the Programme.

<sup>36</sup> COM(2013)173 of 27 March 2013.

<sup>37</sup> Regulation (EU) No 1077/2011 of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1)

The management of external borders and the common asylum policy have benefited most from this boost to the role played by agencies within the EU. The establishment of the European Asylum Support Office and the broader mandate conferred upon Frontex in 2011<sup>38</sup> were undoubtedly positive developments in operational terms, the term of which is currently being extended<sup>39</sup>. The same is true for the positive approach taken in Regulation 1168/2011<sup>40</sup>, which set out a 'strategy' and a code of conduct on fundamental rights as well as assigning a specific role to a 'Fundamental Rights Officer' within this Agency.

#### 1.2.2.2. The emergence of an operations-based culture

In the strict sense of the term, the operational dimension of the AFSJ has also benefited from a number of concrete attempts to make life easier for people working on the ground.

Point 1.1 of the Stockholm Programme emphasises the need to improve the training of and cooperation between legal professionals and to mobilise resources in order to eliminate barriers to the recognition of legal decisions in other Member States. The measures undertaken by the EU have led to significant progress in this area.

The groundwork for part of this progress was laid in 2008 with the adoption of the Commission's Communication on e-justice<sup>41</sup>. Ever since its establishment in 2010, the European e-justice portal has provided legal professionals with a great deal of concrete and practical information on law and justice in the Member States, and is regarded as a major success. On the other hand, the Commission's introduction of a 'scoreboard' allowing the performance of national justice systems to be observed and measured<sup>42</sup> with a view to promoting 'effective justice and growth'<sup>43</sup> was a much more curious decision, quite apart from the fact that it was not necessary in order to implement the Programme. Questions can be asked about the wisdom of a measure of this kind at a time when so many other areas of judicial cooperation are being neglected.

The training of AFSJ professionals was another of the Programme's priorities aimed at promoting the emergence of a genuine European culture in the area of justice and policing, with the general target audience including judges, public prosecutors, members of the judiciary, police officers, customs officers and border guards. The Programme even states that, 'The ambition for the Union and its Member States should be that a substantive number of professionals by 2015 will have participated in a European Training Scheme or in an exchange programme with another Member State, which might be part of training schemes that are already in place.'

The ambition to establish a European Training Scheme appears to have fallen foul of budgetary constraints, although the proposal for a regulation establishing the Justice programme and the above-mentioned proposals for the upgrading of agencies, in particular Europol and Cepol, should bring some answers.

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<sup>38</sup> Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 111, 4.5.2010, p. 20).

<sup>39</sup> COM(2013)197, Proposal for a regulation establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

<sup>40</sup> Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 304, 22.11.2011, p. 1).

<sup>41</sup> COM(2008)329 of 30 May 2008, Towards a European e-Justice Strategy.

<sup>42</sup> COM(2013)160 of 27 March 2013.

<sup>43</sup> These data mainly originate from the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), which is paradoxical to say the least



The Member States themselves have noted the delays in achieving this priority at the mid-term point of the Programme, referring openly to a 'deplorable ignorance of the range of tools available to the EU'<sup>44</sup>, which raises questions about the ability of the national administrations to implement the EU's strategies.

#### 1.2.2.3. Adaptation of existing instruments

The EU has also made specific adaptations to a number of existing regulations on the fight against serious crime and terrorism, without neglecting migratory policies or juristic issues.

For example, the fight against drugs has been the subject of proposals for regulations which amend the regulations currently in force, such as Regulation 273/2004 and Regulation 111/2005 aimed at preventing the diversion of drug precursors within the EU<sup>45</sup> and third countries<sup>46</sup>.

In practical terms, the fight against terrorism has also been furthered by the adoption of Regulation 98/2013 on the marketing and use of explosives precursors, which aims to address the problem of the misuse of certain chemicals that are explosives precursors for the illicit manufacture of explosives<sup>47</sup>. Similarly, the Commission proposal repealing Regulation 1781/2006<sup>48</sup> aims to improve the traceability of money transfers in order to prevent and detect acts of money laundering and the financing of terrorism.

The main dossier in this area however still relates to the gathering and sharing of information in the fight against serious crime and in respect of external border controls.

Point 2.5 of the Stockholm Programme refers to this as a key issue, and Point 4.2.2 talks about 'managing the flow of information' and a 'strategy to protect data within the Union', which involves both an evaluation of the existing instruments and the development 'of a European Information Exchange Model'.

In an 'Overview of information management in the area of freedom, security and justice' issued in response to this request<sup>49</sup>, the Commission provided a remarkable and detailed summary of the state of play and the main challenges faced in connection with this crucial dossier<sup>50</sup>. This Communication then underwent significant developments in a new Communication published at the end of 2012<sup>51</sup>. The aim is the establishment of a 'European Information Exchange Model (EIXM)' in order to 'strengthen law-enforcement cooperation within the EU'. In response to the Council's wishes, the Commission focuses in this Communication on the arrangements for cross-border exchanges of information in the EU and recommends ways of improving them.

The first point it makes is that there is no need for a new legislative or substantive initiative in this area, since new databases or information exchange mechanisms do not appear to be required. On the other hand, the Commission concludes its evaluation of

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<sup>44</sup> Doc. 15921/12 p. 11.

<sup>45</sup> COM(2012)548.

<sup>46</sup> COM(2012)521.

<sup>47</sup> OJ L, 9.2.2013, p. 1.

<sup>48</sup> COM(2013)44.

<sup>49</sup> COM(2010)385.

<sup>50</sup> In particular by systematically providing details of the main objective of each of the instruments, their structure, the type of personal data to which they relate, the list of authorities with access to the data and the provisions they contain on the protection and storage of data, backed up by figures showing the scope of data transfers.

<sup>51</sup> COM(2012)735.

national approaches with a call for improvements in the use of existing instruments<sup>52</sup> and guarantees of a higher level of security and data protection. These demands were reiterated by the JHA Council, which 'regretted' the delay in its conclusions of 6 and 7 June 2013.

In this general context, the issue of data protection within the EU has retained its significance. The proposal for a directive aimed at the establishment of a legal framework for the use of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime<sup>53</sup> is actually part of a process which started back in 2007. No agreement was reached on a proposal for a framework decision on the same subject, and the latter was rendered null and void by the entry into force of the Treaty of Lisbon.

The call for a European legislative action in order to provide the EU with a PNR system was taken up again in the Stockholm Programme and has been a source of tension both in society and within the institutions, as illustrated by the rejection of a proposal by the Committee on Civil Liberties, Justice and Home Affairs. As far as external matters are concerned, the conclusion of numerous international agreements on the same issue<sup>54</sup> during the period under investigation is evidence of the central importance of this kind of operational cooperation.

Above and beyond the issue of PNR, and in full keeping with the demands of the Stockholm Programme and the European Parliament, the need for a 'global approach to personal data protection in the European Union'<sup>55</sup> was universally endorsed, firstly due to the urgency of the situation and secondly because a new legal basis was available, namely Article 16(2) TFEU.

On 25 January 2012 the Commission therefore presented a draft outlining an all-encompassing reform<sup>56</sup> of the legal regime governing personal data protection within the EU, which to date has mainly been based on Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of these data. As part of this general regime, which is defined in a draft regulation<sup>57</sup>, the issue of personal data protection in the area of police and law-enforcement cooperation has been made the subject of a proposal for a directive<sup>58</sup>.

By its very nature and regardless of any disagreements on its substance, the very idea of a system of derogations which would apply to police and judicial cooperation immediately aroused controversy, particularly in Parliament, which favours an integrated approach. This explains the problems which have been encountered in connection with the text, starting with the reservations expressed by the European Data Protection Controller in an opinion stating that he was 'seriously disappointed with the proposed Directive for

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<sup>52</sup> Framework Decision 2006/960 (the 'Swedish Decision') which enshrines the principle of 'equivalent access' and the 'Prüm' decision 2008/615.

<sup>53</sup> COM(2011)32.

<sup>54</sup> Agreement of 28 June 2010 between the European Union and the United States of America on the processing and the transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Programme; Agreement of 13 September 2001 between the European Union and Australia on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service; Agreement of 8 December 2011 between the United States of America and the European Union on the use and transfer of Passenger Name Records (PNR) to the United States Department of Homeland Security.

<sup>55</sup> COM(2010)609.

<sup>56</sup> Title: Safeguarding Privacy in a Connected World A European Data Protection Framework for the 21st Century.

<sup>57</sup> COM(2012)09.

<sup>58</sup> COM(2012)10.



data protection in the law enforcement area' and that he regretted that the Commission had chosen to regulate this matter in an instrument which 'provides for an inadequate level of protection, and which is greatly inferior to the proposed Regulation'<sup>59</sup>.

In this context, it is quite understandable that the JHA Council at the start of June was unable to make any progress on this dossier, with the ongoing PRISM scandal doing little to reduce tensions.

External border controls also formed the subject of proposals aimed at improving their effectiveness on the ground. The proposal for a regulation establishing the European Border Surveillance System (EUROSUR) was tabled on 30 April 2012. The proposal aimed at establishing a system to register entry and exit data of third-country nationals had been tabled shortly before, at the same time as the proposal on the establishment of a Registered Traveller Programme aimed at speeding up controls at external borders.

The new Schengen Information System (SIS II) went live in April 2013 after a nine-year delay and will offer new functions such as the inclusion of digital fingerprints. Finally, the LISA agency for the operational management of large-scale IT systems in the area of freedom, security and justice started operations on 1 December 2012, and the gradual deployment of the Visa Information System (VIS) began in autumn 2011 with the first region of North Africa.

### **1.2.3. Mutual trust**

Mutual recognition and the underlying mutual trust between Member States are a central focus of AFSJ policies. This is particularly true as regards the judicial cooperation in civil and criminal cases regulated by Articles 81 and 82 TFEU<sup>60</sup>. This important development has allowed the adoption of varied and significant texts in the area of judicial cooperation in both criminal and civil cases, with the end result that ECJ judgments regularly call on national judges to undertake such cooperation.

In view of this challenge, the Stockholm Programme placed mutual trust at the top of the list of tools necessary for its successful implementation (Point 1.2.1). It also made it a central feature of its provisions on 'Making people's lives easier' in 'A Europe of law and justice' (Points 3.1 and 3.2).

Although most of the recent legislative developments in the area of mutual trust date back to before the period covered by the Programme, the latter nevertheless provided for a certain amount of progress as regards mutual recognition in both civil and criminal cases. In particular, the Programme insists on respect for principles such as proportionality and efficiency. Furthermore, and in order to 'strengthen' this trust, the Programme tackled the crucial issue of evaluating the existing instruments.

In regulatory terms, the Programme is explicitly aimed at two specific areas: a 'comprehensive system for obtaining evidence' and victim protection<sup>61</sup>.

The initiative by a number of Member States<sup>62</sup> concerning the European Investigation Order comes in response to the first demand made under Point 3.1.1. The Programme proposes a comprehensive system to replace all the existing instruments in this area,

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<sup>59</sup> OJ C 192, 30.6.2012, p. 7.

<sup>60</sup> In this case the ECJ even tackled the issue of the appointment of Member States responsible for asylum applications under the Dublin II Regulation.

<sup>61</sup> See below.

<sup>62</sup> Belgium, Bulgaria, Estonia, Spain, Austria, Slovenia and Sweden, doc. 9288/2010.

including the Framework Decision on the European Evidence Warrant, covering as far as possible all types of evidence.

This new approach will be based on a single instrument called the European Investigation Order (EIO), which will take the form of a decision issued by a judicial authority in one Member State (the issuing State) for the purpose of having one or several specific investigative measure(s) carried out in another Member State (the executing State) with a view to gathering evidence within the framework of the proceedings referred to in the directive. This European Investigation Order will be executed by the Member States on the basis of the principle of mutual recognition. This holds the potential for considerable progress in this field, while at the same time entailing significant risks from the point of view of fundamental rights<sup>63</sup>.

The Programme's second objective is covered by Directive 2011/99 on the European Protection Order<sup>64</sup>. Once again the outcome of an initiative by a number of Member States<sup>65</sup>, the text is based on the principle that, in a common judicial area without internal borders, the protection granted to a natural person in one Member State should continue to be granted without any interruption in whichever Member State the person is taken to or visits, hence the obligation imposed on the authorities in the other Member States to guarantee this protection.

The proposal for a regulation on the mutual recognition of protection measures in civil matters<sup>66</sup> complements Directive 2011/99/EU and was adopted by the Council on 6 June 2013<sup>67</sup>. The text will apply to protection measures ordered with a view to protecting a person when there exist serious grounds for considering that that person's life, physical or psychological integrity, personal liberty, security or sexual integrity is at risk, for example so as to prevent any form of gender-based violence and violence in close relationships, such as physical violence, harassment, sexual aggression, stalking, intimidation or other forms of indirect coercion. The diversity of judicial approaches to protection measures in the various Member States means that in some cases the measures will fall under civil law whereas in others they will fall under criminal or administrative law, hence the importance of mutual recognition in this respect<sup>68</sup>.

The Programme finally emphasises the issues surrounding detention in the EU, with the European Council considering that efforts to promote an exchange of views should be pursued. The Commission has therefore published an important Green Paper<sup>69</sup> which rightly emphasises the interplay between national conditions of detention and the correct application of mutual recognition instruments such as the European Arrest Warrant, with questions about provisional detention often arising in connection with the latter. The idea that the national judicial systems provide equivalent guarantees in this respect, reiterated recently by the Court of Justice<sup>70</sup>, is based on the assumption that the Member States adhere to common standards of detention, even though it is well known that the Member States are criticised all too often on these grounds by the European Court of Human Rights.

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<sup>63</sup> Cf. the Opinion of the European Union Agency for Fundamental Rights on the draft Directive regarding the European Investigation Order, 14 February 2011.

<sup>64</sup> Directive 2011/99/EU of 13 December 2011 on the European Protection Order (OJ L 338, 21.12.2011, p. 2).

<sup>65</sup> Belgium, Bulgaria, Estonia, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Finland and Sweden.

<sup>66</sup> COM(2011)276 of 18.5.11.

<sup>67</sup> Doc. 10412/13.

<sup>68</sup> The text was adopted by Parliament at first reading on 22 May 2013.

<sup>69</sup> COM(2011)0327 Strengthening mutual trust in the European judicial area – A Green Paper on the application of EU criminal justice legislation in the field of detention.

<sup>70</sup> ECJ, 30 May 2013, Jeremy F., C 168/13 PPU

The evaluation of existing instruments in the field of mutual recognition is the second area of work proposed by the Programme (3.2.3).

The Third report on the evaluation of Framework Decision 2002/584 on the European Arrest Warrant<sup>71</sup> was as informative as the first two. Even though the problems linked to the transposition into national law of the European Arrest Warrant now appear to have been largely settled, a number of difficulties still remain, and it is astonishing that the EU has failed to get to grips with them given that they are clearly highlighted in the report.

The report describing seven years of implementation of the European Arrest Warrant reveals that this instrument has been an undisputed success, and that operational actors in the area of law-enforcement cooperation have made full use of this operational mechanism<sup>72</sup>, which is also resulting in ever closer cooperation with the Court of Justice.

Nevertheless, an analysis of the current situation reveals a number of sticking points, particularly in respect of proportionality, which neither the Member States nor the Commission have yet seen fit to overcome.

In this respect, although the issue of monitoring mutual trust between Member States had previously been ignored, it has now been raised by users of the European Arrest Warrant, as illustrated by a number of recent cases<sup>73</sup>.

Other instruments of mutual recognition have also been subject to specific evaluations, such as Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation decisions<sup>74</sup>.

#### 1.2.4. Judicial cooperation in civil matters

Having long lagged behind the other areas of the AFSJ, judicial cooperation in civil matters is the area where most progress has been made during the Stockholm Programme. This progress was necessary both in order to overcome the bottlenecks caused by the opposition of certain Member States and to eliminate past backlogs in order to meet the objective of *'strengthening trust in the European judicial area'*<sup>75</sup>, or in other words going beyond the strictly defined area of cooperation between judges<sup>76</sup>.

The Council's decision to use reinforced cooperation in this area under Article 329 TFEU, for the first time in the history of the EU, fell under the first of these categories. The decision concerned the law applicable to divorces<sup>77</sup>, on the grounds that it was impossible for certain Member States to accept a common judicial framework which would have meant giving precedence to a foreign law. This decision took effect with the adoption of Regulation 1259/2010 of 20 December 2010<sup>78</sup>, which establishes a clear and comprehensive common legal framework for the law applicable to divorce and legal

<sup>71</sup> COM(2011)175, Report from the Commission to the European Parliament and the Council of 11 April 2011 on the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

<sup>72</sup> 54 689 mandates were issued and 11 630 enforced. Extradition between EU Member States now takes between 14 and 16 days if the individual agrees to the transfer and 48 days if they do not, whereas it previously took over a year.

<sup>73</sup> With the Aurore Martin case between France and Spain or the Jeremy Forrest case between the United Kingdom and France.

<sup>74</sup> COM (2010) 428 of 23 August 2010.

<sup>75</sup> COM(2011)551 of 13 September 2011, Commission Communication on Building Trust in EU-wide Justice: a New Dimension to European Judicial Training

<sup>76</sup> Cf. for example COM(2010)747 of 14 October 2010: Green Paper 'Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records.'

<sup>77</sup> Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

<sup>78</sup> Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (OJ L 343, 29.12.2010, p. 10).

separation in the 14 Member States which participated in the process<sup>79</sup> in the hope of overcoming the problems encountered by their citizens in this area.

At the same time, various proposals for regulations are currently awaiting<sup>80</sup> first reading in Parliament, ranging from a proposal on jurisdiction, applicable law, recognition and enforcement of decisions in matters of matrimonial property regimes<sup>81</sup> to a proposal on jurisdiction, applicable law, recognition and enforcement of decisions in matters of the property consequences of registered partnerships<sup>82</sup>.

The Programme's other achievements also relate to issues of everyday importance in the legal life of the EU's citizens, in particular as regards the 'process of abolishing all intermediate measures' set as a goal by the Programme (Point 3.1.2) or insolvency proceedings<sup>83</sup>.

The same is true of the recast of the 'Brussels I' Regulation with the aim of facilitating and accelerating the circulation of decisions on civil and commercial matters within the EU. Decisions handed down in one Member State will be recognised in another without any special procedure or 'exequatur', which is a good example of the strengthening of mutual recognition. A judgment handed down in one Member State which is enforceable in that Member State will also be enforceable in other Member States without any declaration of enforceability<sup>84</sup>. Similarly, the establishment of a 'European Certificate of Succession' by Regulation (EU) No 650/2012<sup>85</sup> will speed up successions procedures in cross-border situations and will make it easier and less costly for heirs and legatees as well as for persons entitled to reserved shares to take possession of their respective parts of the estate<sup>86</sup>.

On top of these achievements, provisional agreements mean that a number of other dossiers are also close to completion, such as the proposal for a regulation on mutual recognition of protection measures in civil matters<sup>87</sup> or the proposal for a regulation on a common European sales law, currently at the stage of first reading in Parliament<sup>88</sup>, despite the objections voiced by certain Member States to the scope of the Commission's proposal.

#### **1.2.5. Procedural rights**

Progress in the area of procedural rights, based on roadmap monitoring and the adoption of texts with crucial importance for the protection of fundamental rights, has been one of the major breakthroughs of the Stockholm Programme. However, it is worth remembering

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<sup>79</sup> Spain, Italy, Hungary, Luxembourg, Austria, Romania, Slovenia, Bulgaria, France, Germany, Belgium, Latvia, Malta and Portugal.

<sup>80</sup> Cf. also the Communication from the Commission – Bringing legal clarity to property rights for international couples, COM(2011)125.

<sup>81</sup> COM(2011) 126 of 16.3.11.

<sup>82</sup> COM(2011) 127 of 16.3.11.

<sup>83</sup> Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings, COM(2012)744.

<sup>84</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast) (OJ L 351, 20.12.2012, p. 1).

<sup>85</sup> Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107).

<sup>86</sup> Interestingly, there is no reference to this key text in either of the two documents tabled at the mid-term point of the Programme.

<sup>87</sup> COM(2011) 326 of 8.6.11.

<sup>88</sup> COM(2011)635 of 11 July 2011, Proposal for a regulation of the European Parliament and of the Council on a Common European Sales Law.

that the roadmap<sup>89</sup> was adopted one month before the Stockholm Programme, in November 2009, due to the opposition of certain Member States and the resulting failure of an integrated approach..

The issue of procedural rights in the EU is therefore being regulated gradually and in piecemeal fashion, text by text. The first of these texts was Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings<sup>90</sup>, which was the outcome of a joint initiative by the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand-Duchy of Luxembourg, the Republic of Hungary, the Republic of Austria, the Portuguese Republic, Romania, the Republic of Finland and the Kingdom of Sweden.

The text clearly acknowledges the reality of judicial cooperation in criminal proceedings within the EU by stating that, 'common minimum rules should increase confidence in the criminal justice systems of all Member States, which in turn should lead to more efficient judicial cooperation in a climate of mutual trust'<sup>91</sup>, hence the need to establish such cooperation in the field of interpretation and translation in criminal proceedings. The text also includes the conventional caveat that it should under no circumstances be interpreted as a step backwards from the European Convention for the Protection of Human Rights and Fundamental Freedoms or the Charter of Fundamental Rights of the European Union. It is to be transposed into national law by 27 October 2013.

Directive 2012/13/EU on the right to information in criminal proceedings<sup>92</sup> was a Commission initiative in response to the roadmap's Measure B, as promised in the Commission's Action Plan for Implementing the Stockholm Programme. It explicitly enshrines in legislation the principle whereby suspects and accused persons are entitled to be informed of their procedural rights, regardless of their legal status, citizenship or nationality, a principle which had already been established in the case-law of the European Court of Human Rights.

The third area of procedural rights regulation is covered by the proposal for a directive on the right of access to a lawyer in criminal proceedings and the right to communicate upon arrest<sup>93</sup>, and the agreement concluded with Parliament<sup>94</sup> put an end to nearly 10 years of debates on this matter. The aim of the text is to lay down rules establishing the right of suspects and accused persons and persons subject to an European Arrest Warrant to have access to a lawyer in criminal proceedings against them, and rules governing the right of suspects and accused persons who have been deprived of their liberty to communicate upon arrest with a third party.

#### **1.2.6. Substantive criminal law**

Efforts to approximate the criminal laws of the Member States have not been pursued with the enthusiasm seen in the first half of the decade, although this statement should be qualified in view of the length of the decision-making process in the European Union, with many proposals still being examined. The Commission also launched an important

<sup>89</sup> Taking a gradual approach, the roadmap called for the adoption of measures regarding the right to translation and interpretation (measure A), the right to information on rights and information about the charges (measure B), the right to legal advice and legal aid (measure C), the right to communication with relatives, employers and consular authorities (measure D), and special safeguards for suspects or accused persons who are vulnerable (measure E) (OJ C 295, 4.12.2009, p. 1).

<sup>90</sup> OJ L 280, 26/10/2010, p. 1.

<sup>91</sup> Recital 9.

<sup>92</sup> OJ L 142, 1/6/2012, p. 1.

<sup>93</sup> COM(2011)326.

<sup>94</sup> Doc. 10495/13.

initiative on 20 September 2009 by publishing a communication entitled 'Towards an EU criminal policy: Ensuring the effective implementation of EU policies through criminal law' which set out guidelines for its future action in this field.

Efforts have also been made to 'Lisbonise' substantive criminal law in the EU by replacing certain framework decisions and opening up a number of new areas of work, with the end effect that the European Union appears to have gradually hit its stride with the problematic task of approximating the criminal laws of the Member States.

Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA<sup>95</sup> and Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA<sup>96</sup> fall under the first of the above categories. A more recent development is Directive 2009/52/EU of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals<sup>97</sup>, aimed at preventing the employment of illegally staying third-country nationals and combating illegal immigration by laying down minimum common standards on sanctions and measures to be applied in the Member States against employers who breach this prohibition. Similarly, the proposal for a directive replacing Framework Decision 2005/222/JHA on attacks against information systems is aimed at laying down minimum rules for this type of offence in order to improve cooperation between Member States<sup>98</sup>.

The list of draft texts covering new areas of work is ambitious, even though the real added value they will bring to the fight against crime, either as new initiatives or as updates of existing legal frameworks, remains to be evaluated. In general terms, it should also be noted that the emphasis is on financial and organised crime, although the fight against drugs and large-scale criminal phenomena continues to be a priority as well.

For example, the proposal for a directive on the protection of the euro and other currencies against counterfeiting by criminal law is intended to replace Framework Decision 2000/383/JHA and to reduce the continuing discrepancies between national regulations<sup>99</sup>. The proposal for a directive on the freezing and confiscation of proceeds of crime in the European Union<sup>100</sup> is based on a whole series of existing texts<sup>101</sup> and aimed at tightening up the legal framework in the field of confiscation. Similarly, the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law<sup>102</sup> replaces existing texts with the aim of clamping down even harder on fraud.

The criminal sanctions imposed for the most serious market abuses such as insider dealing and market manipulation are a good example of the new opportunities provided by the Treaty of Lisbon, in particular Article 83(2) TFEU. They are the subject of a proposal for a directive aimed at laying down minimum rules in this area, an initiative which was beefed

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<sup>95</sup> OJ L 101, 15/4/2011, p. 1.

<sup>96</sup> OJ L 335, 17/12/2011, p. 1.

<sup>97</sup> OJ L 168, 30/6/2009, p. 24.

<sup>98</sup> COM(2010)517.

<sup>99</sup> COM(2013)42.

<sup>100</sup> COM(2012)85.

<sup>101</sup> Framework Decision 2001/500/JHA, which obliges Member States to enable confiscation and to ensure that requests from other Member States are treated with the same priority as domestic proceedings; Framework Decision 2005/212, which harmonises confiscation laws; Framework Decision 2003/577, which provides for mutual recognition of freezing orders; Framework Decision 2006/783, which provides for the mutual recognition of confiscation orders; Council Decision 2007/845/JHA on cooperation between asset recovery offices

<sup>102</sup> COM(2012)363.



up in response to the alleged manipulation of reference rates such as Libor and Euribor<sup>103</sup>.

### **1.3. Serious concerns**

#### **1.3.1. The EU's ability to provide a common vision of the rule of law**

The highly controversial constitutional reforms adopted by Hungary in recent years (forced retirement of judges, independence of the data protection authority, implementation of ECJ decisions, rules governing electoral campaigns) have been viewed as violations of the values upon which the European Union is founded by virtue of Article 2 TEU.

It is gratifying that, in contrast to its caution or inertia in other areas, the Commission actually used its power to launch infringement proceedings against Hungary by way of a response, however partial, to this novel problem.

This was why Parliament called for the establishment of the new 'Copenhagen mechanism'<sup>104</sup>, aimed at making it easier to monitor Member States' adherence to European values. Ensuring the suitability of the EU's arsenal of sanctions is undoubtedly a topic which deserves further reflection and to be the subject of new proposals under the next five-year programme for the area of freedom, security and justice.

It should similarly be noted that this issue was also discussed by the JHA Council during its most recent meeting in June 2013. Its conclusions on fundamental rights and the rule of law and on the Commission's 2012 report on the application of the Charter of Fundamental Rights of the European Union represented a unique opportunity to invite the Commission and the Member States to reflect on the 'need to develop a new and more effective method of safeguarding fundamental values in order to place greater emphasis on promoting a culture of respect for the rule of law while fully respecting national constitutional traditions'.

#### **1.3.2. The EU's ability to handle crises**

The area of freedom, security and justice has experienced at least two major crises, of very different natures, during the implementation of the Stockholm Programme. The first of these crises was internal, namely the breakdown of the asylum system and external border controls in Greece; the second resulted from the hundreds of thousands of refugees fleeing the conflict in Syria, and called into question the ability of the EU and its Member States to formulate a collective response to external events.

In the first of these developments, Greece proved incapable of handling the asylum applications for which it was meant to be responsible. The problems faced by asylum seekers were so severe that they aroused criticism from the European Court of Human Rights for violating Articles 3 and 13 of the ECHR in an M. S. S. judgment of 21 January 2011, the impact of which was heightened by the fact that Belgium was also implicated as the state responsible for examining the application to transfer an asylum seeker from Belgium to Greece under the Dublin II Regulation. The European Union and its agencies (the European Asylum Support Office and Frontex) responded by resorting for the first time to mechanisms such as rapid border intervention teams and asylum support teams, over and above the exceptional financial aid granted by the Commission to Greece via various funds.

Although these measures along with the efforts of the Greek authorities have proved useful, in particular as regards the EU's external borders, the problem remains that

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<sup>103</sup> COM(2011)654/COM(2012)420

<sup>104</sup> In reference to the Copenhagen criteria used during the accession process for new EU Member States.

emergency mechanisms cannot be used to respond to structural problems linked to various factors (shortcomings of a highly bureaucratic state, acute financial crisis, highly exposed geopolitical position etc.). The establishment of a rapid alert and crisis preparation and management mechanism under the new Dublin III Regulation should prevent a crisis of this kind occurring in other Member States in the future. Although the Schengen evaluation mechanism functioned reasonably well in this case in terms of alerts, it failed to prevent the crisis due to Greece's inability to take sole responsibility for controls along its border with Turkey. In reality the problem comes down once again to solidarity between Member States and the need for them to respond against the backdrop of a highly political debate which, given its complexity and the fact that it is all too often the subject of fruitless controversy, should be examined objectively in an in-depth study which takes into account the burdens, obligations and capacities of the Member States in the field of immigration and asylum.

As regards the second point, the assistance provided by the European Union to the hundreds of thousands of refugees fleeing the still ongoing Syria crisis has to date been solely financial. The new European Asylum Support Office, which could have attempted to leverage the crisis as proof of the need to coordinate Member States' responses to major humanitarian crises of this kind, has been remarkably reticent. It was left to the High Representative of the Union for Foreign Affairs and Security Policy to challenge the airport transit visa requirement imposed on Syrian nationals and insist on continued discussions on this matter with the Member States in order to ensure a greater degree of convergence between their approaches to the treatment of Syrian asylum seekers, in a communication of 24 June 2013<sup>105</sup>.

## **2. THE CHALLENGES FACING THE FUTURE PROGRAMME**

Most of the challenges relate by necessity to the shortcomings identified in the implementation of the Stockholm Programme, with priority status for the 'Lisbonisation' of European approaches, even though it should not be forgotten that the groundwork still needs to be laid for certain aspects of the area of freedom, security and justice that have to date been neglected and will require strong political impetus, which in itself is ample justification for the adoption of a new and genuinely strategic programme.

### **2.1. Political challenges: harmonising the principles and effectiveness of the AFSJ**

#### **2.1.1. The significance of fundamental rights**

Questions should firstly be asked about the Programme's emphasis on issues relating to citizenship and fundamental rights, since the Treaties and more specifically Title V TFEU on the area of freedom, security and justice which underlies the Programme, make no specific reference to these issues, which were moreover included in the Treaty on European Union rather than the Treaty on the Functioning of the European Union due to their significance.

These issues are interdisciplinary in nature, and it goes without saying that they are common to all aspects of the EU's work to construct the AFSJ, being both a driving force behind this endeavour and a limiting factor. The EU must simultaneously promote its values and the fundamental rights which inspire it and ensure that they are adhered to in the policies it pursues with the Member States. A good example of this balancing act is the issue of ECHR accession referred to in Point 2.1 of the Stockholm Programme. The impact

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<sup>105</sup> JOIN(2013)22, p. 8.



that ECHR accession would have on JHA policies is obvious, but it is also clear that its repercussions go well beyond the scope of a single programme dedicated to issues of migration and security, and should be tackled in a much larger framework as an issue which affects all of the EU's fields of action.

Only a selection of typical fundamental rights issues will therefore be examined in this study, one of which is of course the question of data protection. The PNR controversy provoked a public debate on this issue which is still ongoing, and the pace of developments in this area is likely to pick up following the contentious discovery that the NSA's PRISM surveillance programme was being implemented in various Member States, an issue that has quite rightly been taken up by Parliament<sup>106</sup>.

This is evidently a typical example of a collision between a technical dossier and the associated political challenges, of a kind which the AFSJ by its very nature is likely to generate. Security policy-based needs and statements regarding the EU's values and its respect for fundamental guarantees presuppose an ability to mediate and reach a balanced compromise which appears out of the EU's grasp at present.

### **2.1.2. The need for solidarity between the Member States**

The principle of solidarity is now a meaningful term in the area of justice and home affairs within the EU<sup>107</sup>, even though its precise meaning and judicial scope have still not been adequately clarified.

The TFEU goes beyond the general formulations in Article 4(3) TEU and makes specific reference to the AFSJ. Article 67(2) 'bases' the common immigration and asylum policy on this solidarity, and Article 80 TFEU provides it with a general framework in the form of a 'principle': 'The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.' Finally, Article 222 TFEU refers to the 'spirit of solidarity' between the Member States and the EU that should prevail in the event of a terrorist attack.

In this context, it is hardly surprising that the Stockholm Programme made solidarity one of the key foundations of its provisions, albeit while failing to clarify its exact meaning. Point 6 of the Programme, on 'a Europe of responsibility and solidarity' in the field of asylum and immigration, follows the letter of the Treaty by not applying the principle to police and judicial cooperation apart from the specific case of terrorism. The joint proposal by the High Representative and the Commission<sup>108</sup> intended to flesh out the solidarity clause in Article 222 TFEU could have been used as an opportunity for a pro-active approach, but the opportunity was clearly passed up by its authors. The lack of any reference whatsoever to Parliament in any role serves as an illustration of the issue and does not augur well for the aims of the project.

The situation as it stands reveals that there is still a long way to go in this respect. Theoretical statements on the principle of solidarity downplay the conflicts of interests between the Member States which explain the difficulty of implementing them: not all of the Member States are under pressure from migrants or asylum seekers, and not all of the Member States are affected by terrorist crime. The end result is a lack of solidarity,

<sup>106</sup> European Parliament resolution of 4 July 2013 on the US National Security Agency surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' privacy (2013/2682(RSP))

<sup>107</sup> Used for the first time in 1992 during a meeting of interior ministers in London.

<sup>108</sup> Document 18124/12.

evidenced by individual failures or unilateral responses by Member States. The Schengen governance crisis ensuing from clashes between Italy and France over Arab Spring-related migratory flows was ample evidence that solidarity is a concept which still lacks substance within the AFSJ when it comes to controls of external borders and the management of migratory flows. A desire on the part of one Member State to reinstate controls along internal borders is merely a symptom of this lack of solidarity and evidence of the potentially resulting problems for the EU. The welcome albeit too limited reform of the Dublin II system, which will leave unchallenged the inegalitarian principles underlying the system governing the choice of Member State to examine an asylum application, also makes it clear that the EU is not yet at the stage of envisaging a genuine sharing between Member States of the burden of receiving asylum seekers and refugees. Finally, it is hard to know what to say about the commendable idea of intra-European relocation for third-country nationals with international protection given that it would appear from figures circulated in the press that the USA has to date accepted more resettlements from Malta than all of the Member State together, in spite of EU funding for two projects in this area<sup>109</sup>.

By way of contrast, the Stockholm Programme has indisputably seen the strengthening of a genuine operational solidarity which was previously only rudimentary. Common risk evaluations at agency level, joint operations under Frontex and the deployment of support teams by the European Asylum Support Office are evidence of this change.

The other key form of solidarity is financial solidarity, which holds the potential of restoring a balance between the asymmetric situations of the EU Member States and easing the associated national tensions.

The reform of the four existing funds (integration, refugees, borders and return) into two more manageable funds (one for asylum and migration, the other for internal security) will result in an increase of 27 % in the total amount available under Heading 3 of the EU's budget (security and citizenship) for the 2014-2020 financial perspective. Increasing funding for the area of freedom, security and justice despite the fact that the EU budget is diminishing overall is a clear statement of political will. However, even though the Mediterranean Member States (Malta, Cyprus, Greece, Italy and Spain) which are particularly subject to migratory pressures have been and will remain the main beneficiaries of the European funds, the fact remains that the total sums available under these funds are negligible compared with the budgets earmarked for these issues at national level. The European Union's endeavours in the area of solidarity will therefore remain glaringly inadequate, and the programme's successor, falling under the next financial perspective, will not change much in this respect.

## **2.2. Institutional challenges: fully implementing the Treaty of Lisbon**

### **2.2.1. The role of stakeholders**

Adoption of the Stockholm Programme's successor has provoked an institutional controversy in connection with Article 68 TFEU, according to which, 'The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice'.

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<sup>109</sup> On the subject of the EUREMA projects, cf. the fact finding report on intra-EU relocation activities from Malta drafted by the European Asylum Support Office: <http://easo.europa.eu/wp-content/uploads/EUREMA-fact-finding-report-EASOI.pdf>

This provision, which to all appearances only refers to the tasks conferred upon the European Council in a general sense by the Treaties, emphasises the importance of this institution's role in the area of freedom, security and justice and accordingly poses a problem, since the roles of both the Commission and Parliament are overlooked by the letter of the Treaty. Yet it is hard to see how the European Council can define strategic guidelines for legislative planning without at the very least holding consultations of some kind with the other institutions involved in the legislative process.

Particularly when the texts are detailed, as was the case for the Hague and Stockholm Programmes, legislative programmes fall under the remit of the Commission, which holds a monopoly on legislative initiatives. The tensions between the Council and the Commission which accompanied the adoption of the Stockholm Programme arose from the very same issue of their respective roles.

This time Parliament is involved in the tensions which have already surfaced in respect of the Stockholm Programme's successor. The European Council had decided that it 'will hold a discussion at its June 2014 meeting to define strategic guidelines for legislative and operational planning in the area of freedom, security and justice [...]. In preparation for that meeting, the incoming Presidencies are invited to begin a process of reflection within the Council. The Commission is invited to present appropriate contributions to this process' (paragraph 21 of the conclusions of the European Council held on 27 and 28 June 2013). It is immediately obvious that Parliament has been overlooked, despite the fact that it has traditionally played a role in the adoption of programmes by way of a resolution informing the European Council of its opinion.

This decision by the European Council provoked an immediate response from the President of Parliament, who stressed in a speech he gave to the Council that, 'The European Parliament is very concerned at the choice of date, given that this important decision will coincide with the European elections. I hope that you will agree with me that the European Parliament, as co-legislator, must be given the chance to play a proper role in this legislative planning process and that we must reach an agreement to that effect.'

A replacement needs to be found for Article 68 TFEU, which gives the European Council a prominent role in the definition of strategic guidelines within the institutional framework of a European Union governed by the principle of loyal cooperation which is established by the case-law of the Court of Justice and enshrined in Article 13(2) of the Treaty on European Union. It is not difficult to understand the need for loyal cooperation and its implications given that the European Council's strategic guidelines can only be implemented by the European Commission thanks to its power of legislative initiative, and given that the Council of Ministers will even then only be able to legislate in agreement with Parliament, which will also play a key role when it comes to the budget.

In point of fact, it is the timetable for adoption of AFSJ programmes which ought to be reviewed. It is hard to see how institutions coming to the end of their mandates will be able to define strategic guidelines for the AFSJ covering the next five years when the European electoral campaign is in full swing. The Stockholm Programme was adopted in December 2009 for the period 2010-2014, and so adoption of its successor could be postponed until December 2014 or even early 2015<sup>110</sup>, in order to ensure that the institutions newly elected in the June 2014 elections can have their say. The argument in favour of the Council's current timetable, namely that the problem caused by the elections is not a new one, serves merely to perpetuate an system which is unfit for purpose and in

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<sup>110</sup> The institutions need a certain amount of time to organise themselves after the elections, perhaps more so post June 2014 than in the past.

which the legitimacy of the next five-year programme will not be legitimised by the voters.

It would be a particularly good idea to avoid a new conflict given that the European institutions have only just put an end to the passionate clashes provoked by the issue of Schengen governance. The Council and Parliament have wisely managed to reach an agreement on the Schengen evaluation procedure and on the temporary re-establishment of internal border controls within the EU. Following the substantive incorporation of the Schengen *acquis* into EU legislation by way of a protocol annexed to the Treaty of Amsterdam, this time it is the institutional framework of the Schengen area which is becoming ever closer aligned with the common law of the European Union.

Given that the institutions have only just reached an agreement on the difficult issue of evaluation by going beyond the letter of Article 70 TFEU, the latter having oddly enough turned it into an intergovernmental mechanism, considerable harm could ensue if they prove incapable of reading Article 68 in the same spirit of loyal cooperation. It remains only to ask whether it is the approach itself, or at least the content of the five-year programme, which should be called into question.

### **2.2.2. The approach followed**

Insidious doubts appear to have emerged regarding the usefulness of the Stockholm Programme and moreover of the future programme for the area of freedom, security and justice. A number of warning signs were however evident.

The scoreboard used to evaluate the extent to which commitments had been discharged disappeared as soon as implementation of the Stockholm Programme began. The Commission itself then decided to not to carry out the mid-term evaluation of the Programme's outcomes which should have taken place in June 2012. Much as it objected to it, the European Council was unable to find fault with this decision<sup>111</sup>. This failure to carry out an evaluation, with the exception of a brief 15-page document issued by the Cypriot Presidency for the attention of the Council<sup>112</sup> and an ongoing initiative by Parliament's Committee on Civil Liberties, Justice and Home Affairs, which has asked its chair to take action to compensate for the Commission's failings<sup>113</sup>, calls into question the usefulness of the Programme itself: what is the point of thinking about a successor when there is so little interest in the Programme itself?

Calling into doubt the object of the evaluation rather than focusing on the failure to carry out this evaluation is an shift in thought which deserves further attention, not to mention the fact that it raises questions about a great many other European policies which have not been adequately followed up. It is however worth asking whether the problem might instead result from the lack of an evaluation culture in the area of justice and home affairs. The fact that, as we shall see, the outcome of the evaluation is much bleaker than it was for Stockholm means that the question answers itself, at least in part.

Even though some people believe that the era of constructing the AFSJ is now over, one can be forgiven for thinking that the area of freedom, security and justice is far from complete, and that a general plan is still need to ensure that progress continues towards its completion. A number of examples can be cited as good illustrations of future needs in relation to the current situation: the short-stay visa policy is becoming an increasing

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<sup>111</sup> Cf. Point 1.2.11 of the Stockholm Programme.

<sup>112</sup> 15921/12 of 13 November 2012.

<sup>113</sup> Cf. the Staff Working Document on the Mid-term Evaluation of the Stockholm Programme dated 13 May 2013 (PE510.744v01-00).

problem for the European Union; the future agenda for legal immigration in large part still needs to be defined for a continent with a diminishing and ageing population; solidarity between Member States still needs a great deal of work in order to avoid futile squabbles and destabilising attitudes; mutual trust requires the closer approximation of national legislation, and so legislative work on the AFSJ is not yet complete, in particular as regards procedural issues.

Is it possible for such sensitive issues to be regulated without a strong impetus from the European Council? Is it not still the case that dossiers bogged down in the Justice and Home Affairs Council can only be unblocked by the Heads of State and Government? In view of the recent successful adoption of the asylum package in spite of the concomitant problems, is it not still the case that a deadline set at the highest level acts as a powerful incentive for action on the part of the Member States? All of these questions are evidence of how useful a new programme could be. It goes without saying that there is no need to cover 38 pages of the Official Journal of the European Union like the Stockholm Programme did, especially since the Tampere conclusions proved their worth despite their brevity. A clear definition of genuinely strategic guidelines for legislative and operational planning in the area of freedom, security and justice which avoided getting caught up in detail would respect not only the spirit but also the letter of Article 68 TFEU.

### 2.3. Technical challenges

On 28 June 2006 the Commission adopted a **Communication** on the evaluation of EU policies on freedom, security and justice<sup>114</sup>. The planned evaluation would take place in three stages (gathering of information, drafting of reports and strategic evaluation) and be based on indicators provided by the Member States. It was to be carried out every five years.

Following a conference and a discussion paper, the Council adopted conclusions on 19 June 2007 which limited the scope of the Commission's proposal<sup>115</sup>. Due to a lack of cooperation between the Member States, which found the mechanism too restrictive, the latter was never implemented.

Implementation of the Hague Programme was however evaluated<sup>116</sup> using a 'scoreboard' which measured annual progress. From 2009 onwards, the Commission published an annual report on immigration and asylum<sup>117</sup> in order to follow up the implementation of the Immigration and Asylum Pact adopted on the initiative of the French Presidency of the time in 2008. The substance of these reports<sup>118</sup> is surprisingly progressive and incorporates aspects relating to implementation of the Stockholm Programme, with the most recent report<sup>119</sup> focusing on EU policy in general and including an annex which comprises a working document on the migration policies of the Member States based on information collected via the European Migration Network<sup>120</sup> which the Commission subsidises on the basis of a services contract. Similarly, the interest shown by the Member States in the European Arrest Warrant as a privileged instrument for cooperation has prompted them to establish a follow-up and evaluation policy intended to reduce discrepancies in the application of the text.

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<sup>114</sup> COM(2006)332.

<sup>115</sup> Doc. 10893/1/07.

<sup>116</sup> SEC(2009)766, 10 June 2006.

<sup>117</sup> COM(2010)214.

<sup>118</sup> COM(2011) 291, COM(2012) 250.

<sup>119</sup> COM(2013)422.

<sup>120</sup> Commonly known by the English acronym EMN.

It should be noted that the evaluation of programme implementation took a step backwards with the disappearance of the scoreboard at the same time as the adoption of the Stockholm Programme, since the above-mentioned annual report does not replace the scoreboard. The European Union no longer has a tool which, although essentially descriptive, made it possible to carry out a purely quantitative assessment of policies in the area of freedom, security and justice.

In general terms, ex-post evaluations have been manifestly neglected in favour of ex-ante evaluations by way of the impact analyses which accompany most of the Commission's legislative initiatives and which have benefited from the better lawmaking initiative under the heading of good governance.

Ex-post evaluations have to date been largely limited to judicial evaluations concerning the transposition of directives by the Member States and the implementation of regulations. There are several reasons for this state of affairs, which this study cannot examine in detail. These include in particular the Commission's lack of human and financial resources, the lack of data available at European level, the incompatibility of existing instruments<sup>121</sup> and the lack of political will on the part of the Member States to work together with the Commission, not to mention the fact that the political timetable sometimes means that evaluations are sometimes required before enough time has passed to assess their practical implementation at national level.

It would therefore be a very good idea for the next programme to focus on the issue of evaluating policies in the area of freedom, security of justice, and the European Council will need to state its intentions in this regard with enough force to overcome substantial reluctance at Member State level and back these intentions up with extra funding during an acute financial crisis if the idea of genuine ex-post impact analyses is to become a reality. The challenge posed by the evaluation of policies also applies to the issue of monitoring their implementation.

The issue of monitoring represents a further challenge, and there is no escaping the fact that the elusive reality of the situation is hidden behind the initially impressive figures published by DG Home Affairs on its website dedicated to the 'monitoring of European law' within its remit<sup>122</sup>. Hundreds of non-compliance proceedings have been initiated against Member States, but only several dozen have been referred to the Court of Justice. It cannot be concluded on this basis alone that the Commission's actions have been ineffective, since the latter may have failed to take cases before the ECJ purely because the Member States were persuaded to change their mind, but an analysis of the decisions handed down by the Court of Justice suggests that use has barely been made of non-compliance proceedings. The vast majority of the cases referred to the Court of Justice relate to instances in which transposition has not been completed within the deadline required by the directives in question. To our knowledge, only two cases concerning matters of substance in respect of immigration policy have ever been brought before the Court<sup>123</sup>.

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<sup>121</sup> After over half a century of European law-making, the Member States have still not undertaken to back up their notifications to the Commission of national transposition measures with a systematic correlation table indicating exactly which of the national standards are implementing each of the provisions of European directives (cf. in this respect the very limited progress which should ensue in this area on the basis of the Joint Political Declaration of 28 September 2011 by the Member States and the Commission on explanatory documents (OJ EU, 17.12.2011, C 369, p. 14).

<sup>122</sup> [http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/index_en.htm)

<sup>123</sup> The first related to the exorbitant prices charged for long-stay residence permits for which the Netherlands attracted criticism (judgment of 26 April 2012 in case C-508/10), and the second to the problems faced by third-country national



The post-Stockholm period requires a change of attitude by the Commission on this issue. It goes without saying that the decade spent implementing the area of freedom, security and justice and in bitter negotiations over the founding texts was hardly conducive to use of the judiciary, but a new period prioritising the evaluation of effective implementation of the *acquis* should now ensue, and this requires the drafting of a contentious strategy which uses the threat of non-compliance proceedings against Member States which fail to transpose texts or to apply them correctly. The time is more than right given that the Court will soon have at its disposal all of its competences in the area of the former third pillar following the imminent end of the transitional period provided for by the Treaty of Lisbon. The stakes are high because we are talking about the credibility of the rule of law within the European Union. We do not want a repeat of the unfortunate episode involving the Dublin Regulation on asylum, where a ruling by the European Court of Human Rights was needed before the European institutions shouldered their responsibilities and one of the bodies of the Council of Europe had to make up the shortcomings of the EU's institutional framework.

## CONCLUSIONS

It would be futile to hazard a guess at the guidelines for the EU's future fields of action under the next programme, even though some of the priorities, such as the 'Lisbonisation' of the AFSJ, are already clear. The mid-term evaluation of the Stockholm Programme does however bring certain issues to the fore.

Now that the past actions have been evaluated, the time has come for the launch of new initiatives. Except in cases where weaknesses in the original texts have hampered the application of first-generation legislation, as was the case with the 'asylum package', it is only natural that there should now be a 'breathing space', even if it means that regulatory work focuses more on the technical instruments used for implementation, and the operational programme focuses more on their evaluation.

Does this mean that multiannual programmes have had their day? Even the European think tanks in the orbit of the Brussels institutions<sup>124</sup>, quick as they usually are to engage in flights of fancy, have answered this question in the affirmative. The era of major programmes would appear to have ended when the foundations of the area of freedom, security and justice were first laid in the conclusions of the Tampere Council and the successor Hague and Stockholm Programmes, and then consolidated by the Treaty of Lisbon. The multiplication of stakeholders<sup>125</sup> and the proliferation of various plans, programmes, roadmaps and strategies<sup>126</sup> are viewed as obstacles in the way of a new programme. In particular, it has been acknowledged that it is time to evaluate much-neglected past commitments and outcomes, in order to know where we are heading before planning new routes.

Even if some problems can be fixed, such as the current disarray of plans and actors, the political climate as it stands is hardly conducive to the drafting of a new five-year

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students in accessing the labour market, with the Commission having withdrawn from proceedings following a turn-around by Austria (case C-568/10).

<sup>124</sup> For the CEPS, cf. CARRERA, S. and GUILD, E., Does the Stockholm Programme matter?, Paper No 51, 2012 and for the Migration Policy Institute COLLETT, L., Facing 2020: developing a new European agenda for immigration and asylum policy, Policy Brief No 1, 2013.

<sup>125</sup> On top of the move to split the Commission's DG Home Affairs into two separate portfolios, which is potentially a precursor to a similar split within Parliament's Committee on Civil Liberties, Justice and Home Affairs, justice and home affairs is one of the few areas where new agencies have proliferated in spite of the EU's moratorium on their establishment.

<sup>126</sup> The best known of which is the European Pact on Immigration and Asylum of October 2008.

programme. Even the European Council's announcement at its meeting of 27-28 June 2013 that the Heads of State and Government would consider the definition of strategic guidelines for the area of freedom, security and justice at their June 2014 meeting should be viewed with caution. Without wanting to go into the details of a text which does not in fact necessarily herald the adoption of a new programme resembling its predecessors, it has been rumoured that the envisaged legislative and operational planning could confine itself to a few short but well thought out paragraphs.

At the end of a decade spent building an *acquis* in the area of justice, freedom and security, during which time the European Union has covered several thousand pages of the Official Journal with legal norms, the time has come to carry out an evaluation of these latter in order to establish the extent to which they have actually been applied. Yet the huge reluctance to carry out qualitative rather than just quantitative evaluations, and the resistance encountered to the few vain attempts to carry out these latter, call for strong and long-term political backing of a kind which could be enshrined in a new five-year programme. Plans to complete the swathes of migratory policy and judicial cooperation which have to date been neglected and to carry out a genuine evaluation of what has been achieved, on the basis of a timetable guaranteeing effective implementation, would be a major project in the area of freedom, security and justice, and could represent a new programme which would take its place alongside Tampere, the Hague and Stockholm, albeit with a shift in emphasis.



## ANNEX

*The following tables list the main measures implementing the Stockholm Programme under the Programme's seven political priorities.*

*Legislative proposals are highlighted in yellow with an indication of their current status.*

### The Stockholm Programme — An open and secure Europe serving and protecting citizens

#### 1. TOWARDS A CITIZENS' EUROPE IN THE AREA OF FREEDOM, SECURITY AND JUSTICE

COM(2010)171	20/4/2010	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Delivering an area of freedom, security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme		
COM(2011)137	21/3/2011	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents	<i>Awaiting committee decision</i>	
COM(2011)344	10/6/2011	Report from the Commission on subsidiarity and proportionality (18th Report on better lawmaking covering the year 2010)		
COM(2011)489	11/8/2011	Proposal for a Decision of the European Parliament and of the Council on the		

		European Year of Citizens (2013)		
COM(2012)35	8/2/2012	Proposal for a Council Regulation on the Statute for a European Foundation (FE)	<i>Awaiting committee decision</i>	
COM(2012)373	10/7/2012	Report from the Commission on subsidiarity and proportionality (19th Report on better lawmaking covering the year 2011)		

## 2. PROMOTING CITIZENS' RIGHTS: A EUROPE OF RIGHTS

### 2.1. A Europe built on fundamental rights

SEC(2010)305	17/3/2010	Proposal for Commission guidelines for the European Union's accession to the ECHR		
COM(2010)573	19/10/2010	Communication from the Commission – Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union		
COM(2010)708	2/12/2010	Proposal for a Council Decision amending Decision 2008/203/EC of 28 February 2008 implementing Regulation (EC) No 168/2007 as regards the adoption of a Multiannual Framework for the European Union Agency for Fundamental Rights for 2007-2012	<i>Proposal withdrawn by the Commission</i>	

COM(2011)160	30/3/2011	Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2010 Report on the Application of the EU Charter of Fundamental Rights		
COM(2011)249	5/5/2011	Report from the Commission to the European Parliament and the Council – Report on the interim evaluation of the 'Fundamental Rights and Citizenship' Programme 2007-2013		
COM(2011)880	13/12/2011	Proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017	11/3/2013	Council Decision No 252/2013/EU of 11 March 2013 establishing a Multiannual Framework for 2013-2017 for the European Union Agency for Fundamental Rights (OJ L 79, 21.3.2013, p. 1)
COM(2012)169	16/4/2012	Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2011 Report on the Application of the EU Charter of Fundamental Rights		
COM(2013)271	8/5/2013	Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2012 Report on the Application of the EU Charter of Fundamental Rights		

**2.2. Full exercise of the right to free movement**

COM(2010)602	27/10/2010	Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on progress towards effective EU Citizenship 2007-2010		
COM(2010)603	27/10/2010	EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens' rights		
COM(2011)758	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014 to 2020 the Rights and Citizenship Programme	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2013)228	24/4/2013	Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013

**2.3. Living together in an area that respects diversity and protects the most vulnerable**

COM(2010)133	7/4/2010	Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – The social and economic integration of the Roma in Europe		
COM(2010)674	17/11/2010	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Dial 116 000: The European hotline for missing		

		children		
COM(2011)60	15/2/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An EU Agenda for the Rights of the Child		
COM(2011)173	5/4/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – An EU Framework for National Roma Integration Strategies up to 2020		
SEC(2011)193	11/2/2011	Commission Staff Working Document – Report on the progress on equality between women and men in 2010		
COM(2012)226	21/5/2012	Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – National Roma Integration Strategies: a first step in the implementation of the EU Framework		

## 2.4. Rights of the individual in criminal proceedings

COM(2010)82  Initiative by several Member States	9/3/2010	Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings (withdrawn)  <i>Belgium, Germany, Estonia, Spain, France, Italy, Luxembourg, Hungary, Austria, Portugal, Romania, Finland and Sweden</i>	20/10/2010	Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1)
COM(2010)392	20/7/2010	Proposal for a Directive of the European Parliament and of the Council on the right to information in criminal proceedings	22/5/2012	Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1)
COM(2011)274	18/5/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Strengthening victims' rights in the EU		
COM(2011)275	18/5/2011	Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime	25/10/2012	Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57)
COM(2011)326	8/6/2011	Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceeding and on the right to communicate upon arrest	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

**2.5. Protecting citizen's rights in the information society**

COM(2010)593	5/2/2010	Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council		Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council (OJ L 39, 12.2.2010, p. 5)
COM(2010)609	4/11/2010	Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – A comprehensive approach on personal data protection in the European Union		
COM(2012)9	25/1/2012	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Commission of the Regions: Safeguarding Privacy in a Connected World – A European Data Protection Framework for the 21st Century		
COM(2012)10	25/1/2012	Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	



COM(2012)11	25/1/2012	Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013
COM(2012)12	25/1/2012	Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions based on Article 29(2) of the Council Framework Decision of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters		

## 2.6. Participation in the democratic life of the Union

COM(2010)605	27/10/2010	Report from the Commission on the election of Members of the European Parliament (1976 Act as amended by Decision 2002/772/EC, Euratom) and on the participation of European Union citizens in elections for the European Parliament in the Member State of residence (Directive 93/109/EC)		
COM(2012)99	9/3/2012	Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals		

2012/421/EU	19/7/2012			Commission Implementing Decision of 19 July 2012 amending the list of 'basic local government units' in the Annex to Council Directive 94/80/EC laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals (OJ L 192, 20.7.2012, p. 29)
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### 2.7. Entitlement to protection in non-Member States

COM(2011)149	23/3/2011	Communication from the Commission to the European Parliament and the Council – Consular protection for EU citizens in third countries: State of play and way forward		
COM(2011)881	14/12/2011	Proposal for a Council Directive on consular protection for citizens of the Union abroad	<i>Awaiting Parliament 1st reading</i>	

### 3. MAKING PEOPLE'S LIVES EASIER: A EUROPE OF LAW AND JUSTICE

#### 3.1. Furthering the implementation of mutual recognition

##### 3.1.1. Criminal law

COM(2010)428	23/8/2010	Report from the Commission to the European Parliament and the Council based on Article 22 of the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders		
COM(2011)175	11/4/2011	Report from the Commission to the European Parliament and the Council on the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States		
Initiative by several Member States		European Protection Order <i>Belgium, Bulgaria, Estonia, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Finland and Sweden</i>		Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order (OJ L 338, 21.12.2011, p. 2)

##### 3.1.2. Civil law

COM(2009)154	14/10/2009	Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession	4/7/2012	Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107)
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COM(2010)104	24/3/2010	Proposal for a Council Decision authorising enhanced cooperation in the area of the law applicable to divorce and legal separation	12/7/2010	Council Decision of 12 July 2010 authorising enhanced cooperation in the area of the law applicable to divorce and legal separation (OJ L 189, 22.7.2010, p. 12)
COM(2010)105	24/3/2010	Proposal for a Council Regulation implementing enhanced cooperation in the area of the law applicable to divorce and legal separation	20/12/2010	Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (OJ L 343, 29.12.2010, p. 10)
COM(2010)348	1/7/2010	Green Paper from the Commission on policy options for progress towards a European contract law for consumers and businesses		
COM(2010)747	14/12/2010	Green Paper 'Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records'		
COM(2010)748	14/12/2010	Proposal for a Regulation of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast)	6/12/2012	Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast) (OJ L 351, 20.12.2012, p. 1)
COM(2011)125	16/3/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Bringing legal clarity to property rights for international couples		

COM(2011)126	16/3/2011	Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)127	16/3/2011	Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)276	18/5/2011	Proposal for a Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters	<i>Provisional agreement between Parliament and the Council</i>	

### 3.2. Strengthening mutual trust

COM(2009)154	14/10/2009	Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession	4/7/2012	Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107)
COM(2011)125	16/3/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Bringing legal clarity to property rights for international couples		

COM(2011)175	11/4/2011	Report from the Commission to the European Parliament and the Council on the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States	13/6/2002	
COM(2011)293	26/5/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the protection of the financial interests of the European Union by criminal law and by administrative investigations – An integrated policy to safeguard taxpayers' money		
COM(2011)327	14/6/2011	Strengthening mutual trust in the European judicial area – a Green Paper on the application of EU criminal justice legislation in the field of detention		
COM(2011)351	15/6/2011	Report from the Commission – Interim evaluation report on the results obtained from and the qualitative and quantitative aspects of the implementation of the Civil Justice financing programme		
COM(2011)522	29/8/2011	Proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System	25/10/2012	Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1



COM(2011)551	13/9/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Building trust in EU-wide justice - A new dimension to European Judicial Training		
COM(2011)573	20/9/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law		
COM(2012)363	11/7/2011	Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013
COM(2013)173	27/3/2013	Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation And Training (EUROPOL) and repealing Council Decisions 2009/371/JHA and 2005/681/JHA	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013

### 3.3. Developing a core of common minimum rules

#### 3.3.1. Criminal law

COM(2012)363	11/7/2011	Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013
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## 3.3.2. Civil law

COM(2010)348	1/7/2010	Policy options for progress towards a European contract law for consumers and businesses		
COM(2011)156	4/4/2011	Proposal for a Council Regulation amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings and codifying Annexes A, B and C to that Regulation	9/6/2011	Implementing Regulation of the Council (EU) No 583/2011 of 9 June 2011 amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings and codifying Annexes A, B and C to that Regulation (OJ L 160, 18.6.2011, p. 52)
COM(2011)445	25/7/2011	Proposal for a regulation of the European Parliament and of the Council creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013
COM(2011)635	11/10/2011	Proposal for a regulation of the European Parliament and of the Council on a Common European Sales Law	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2012)71	23/2/2012	Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the application of Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes		

COM(2012)372	11/7/2012	Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market	<i>Awaiting committee decision</i>	
COM(2012)744	12/12/2012	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 6 June 2013
COM(2013)161	27/3/2013	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark	<i>Awaiting committee decision</i>	
COM(2013)162	27/3/2013	Proposal for a Directive of the European Parliament and of the Council to approximate the laws of the Member States relating to trade marks	<i>Awaiting committee decision</i>	

### 3.4. The benefits for citizens of a European judicial area

COM(2011)551	13/9/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Building trust in EU-wide justice - A new dimension to European Judicial Training		
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COM(2011)759	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014 to 2020 the Justice Programme	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
Initiative by certain Member States		European Protection Order <i>Belgium, Bulgaria, Estonia, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Finland and Sweden</i>		Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order (OJ L 338, 21.12.2011, p. 2)
COM(2012)71	23/2/2012	Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the application of Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes		

### 3.5. Increasing the Union's international presence in the legal field

## 4. A EUROPE THAT PROTECTS

### 4.1. Internal Security Strategy

COM(2010)673	22/11/2010	Communication from the Commission to the European Parliament and the Council – The EU Internal Security Strategy in Action: five steps towards a more secure Europe		
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COM(2011)790	25/11/2011	Communication from the Commission to the European Parliament and the Council – First Annual Report on the implementation of the EU Internal Security Strategy		
COM(2013)179	10/4/2013	Communication from the Commission to the European Parliament and the Council – Second Annual Report on the implementation of the EU Internal Security Strategy		

#### 4.2. Upgrading the tools for the job

COM(2010)385	20/7/2010	Communication from the Commission to the European Parliament and the Council - Overview of information management in the area of freedom, security and justice		
COM(2010)492	21/9/2010	Communication from the Commission on the global approach to transfers of Passenger Name Record (PNR) data to third countries		
COM(2011)32	2/2/2011	Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)225	18/4/2011	Report from the Commission to the Council and the European Parliament – Evaluation Report on Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly		

		available electronic communications services or of public communications networks and amending Directive 2002/58/EC		
SWD(2012)190	22/6/2012	Commission Staff Working Document on the review of the European Programme for Critical Infrastructure Protection (EPCIP)		
COM(2012)76	19/3/2012	Recommendation from the Commission to the Council authorising the opening of negotiations on an arrangement between the European Union, on the one part, and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, on the other part, on the modalities of the participation by those States in the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice		

#### 4.3. Effective policies

COM(2011)335	8/6/2011	Proposal for a Regulation of the European Parliament and of the Council on European statistics on safety from crime	<i>Awaiting Council's position</i>	
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COM(2011)713	18/1/2012	Communication from the Commission to the European Parliament and the Council – Measuring Crime in the EU: Statistics Action Plan 2011-2015		
COM(2011)752	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)753	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council – establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

#### 4.4. Protection against serious and organised crime

##### 4.4.1. Combating serious and organised crime

##### 4.4.2. Trafficking in human beings

COM(2010)95	29/3/2010	Proposal for a Directive of the European Parliament and of the Council on Preventing and Combating trafficking in Human beings, and protecting victims, repealing	5/4/2011	Council Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1)
COM(2010)493	15/10/2010	Report from the Commission to the European Parliament and to the Council on the application of Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities		
COM(2010)674	17/11/2010	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Dial 116 000: The European hotline for missing children		
COM(2012)286	19/6/2012	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016	<i>Preparatory phase in Parliament</i>	

#### 4.4.3. Sexual exploitation of children and child pornography

COM(2010)94	29/3/2010	Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA	13/12/2011	Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1)
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#### 4.4.4. Cybercrime

COM(2010)517	30/9/2010	Proposal for a Directive of the European Parliament and of the Council on attacks against information systems and repealing Council Framework Decision 2005/222/JHA	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2012)140	28/3/2012	Communication from the Commission to the Council and the European Parliament 'Tackling Crime in our Digital Age: Establishing a European Cybercrime Centre'		

#### 4.4.5. Economic crime and corruption

COM(2011)176	12/4/2011	Report from the Commission to the European Parliament and to the Council based on Article 8 of the Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime		
COM(2011)308	6/6/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on		

		Fighting Corruption in the EU		
COM(2011)309	6/6/2011	Report from the Commission to the European Parliament and the Council based on Article 9 of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector		
C(2011)3673	6/6/2011	Commission Decision of 6.6.2011 establishing an EU anti-corruption reporting mechanism for periodic assessment ('EU Anti-corruption Report') – not published in the Official Journal		Commission Decision of 28 September 2011 setting up the Group of Experts on Corruption (OJ C 286, 30.9.2011, p. 4)
COM(2011)910	19/12/2011	Proposal for a Regulation of the Council extending to the non-participating Member States the application of Regulation (EU) No .../2012 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2010' programme).	<i>Preparatory phase in Parliament</i>	
COM(2011)913	19/12/2011	Proposal for a regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme)	<i>Awaiting committee decision</i>	
COM(2012)85	12/3/2012	Proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of the proceeds from crime in the European Union	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

COM(2013)42	5/2/2013	Proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA	<i>Awaiting committee decision</i>	
COM(2013)45	5/2/2013	Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing	<i>Awaiting committee decision</i>	

## 4.4.6. Drugs

COM(2010)583	20/10/2010	Proposal for a Council Decision on submitting 4-methylmethcathinone (mephedrone) to control measures	2/12/2010	Council Decision of 2 December 2010 on submitting 4-methylmethcathinone (mephedrone) to control measures (OJ L 322, 8.12.2010, p. 44)
COM(2010)630	5/11/2010	Report from the Commission – 2010 progress review of the EU Drugs Action Plan (2009-2012)		
COM(2011)246	5/5/2011	Report from the Commission to the Council and the European Parliament – Report on the interim evaluation of the specific Programme 'Drug prevention and information' (DPIP) 2007-2013		
COM(2011)430	11/7/2011	Report from the Commission on the assessment of the functioning of Council Decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances		

COM(2011)689	25/10/2011	Communication from the Commission to the European Parliament and the Council – Towards a stronger European response to drugs		
COM(2012)548	27/9/2012	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 273/2004 on Drug Precursors	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

#### 4.5. Terrorism

COM(2010)273	31/5/2010	Proposal for a Regulation of the European Parliament and of the Council implementing Article 10 of the United Nations' Firearms Protocol and establishing export authorisation, import and transit measures for firearms, their parts and components and ammunition	14/3/2012	Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1)
COM(2010)316	15/6/2010	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program	13/7/2010	Council Decision of 13 July 2010 on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (OJ L 195, 27.7.2010, p. 3)



COM(2010)317	15/6/2010	Proposal for a Council Decision on the signature of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program	28/6/2010	Council Decision of 13 July 2010 on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (OJ L 195, 27.7.2010, p. 3)
COM(2010)386	20/7/2010	Communication from the Commission to the European Parliament and the Council - The EU Counter-Terrorism Policy: main achievements and future challenges		
COM(2010)473	20/9/2010	Proposal for a Regulation of the European Parliament and of the Council on the marketing and use of explosives precursors	15/01/2013	Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors (OJ L 39, 9.2.2013, p. 1)
COM(2011)429	13/7/2011	Communication from the Commission to the European Parliament and the Council: A European terrorist finance tracking system: available options		
COM(2013)45	5/2/2013	Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing	<i>Awaiting committee decision</i>	
COM(2013)154	22/3/2013	Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and		

		Ammunition, supplementing the United Nations Convention against Transnational Organized Crime		
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#### **4.6. Comprehensive and effective Union Disaster Management: reinforcing the Union's capacities to prevent, prepare for and respond to all kinds of disasters**

COM(2011)752	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)753	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council – establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

## **5. ACCESS TO EUROPE IN A GLOBALISED WORLD**

### **5.1. Integrated management of the external borders**

COM(2010)61	24/2/2010	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)	25/10/2011	Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 304, 22.11.2011, p. 1)
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COM(2010)93 Error in Commission documents (COM(2012)93)	19/3/2010	Amended proposal for a Regulation of the European Parliament and of the Council establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice	25/10/2011	Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011)
COM(2011)3918	20/6/2011	Commission Recommendation amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C(2006) 5186 final)		
COM(2011)118	10/3/2011	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and the Convention implementing the Schengen Agreement	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
COM(2011)391	29/6/2011	Report from the Commission to the European Parliament and the Council: Progress report on the development of the second generation Schengen Information System (SIS II) July 2010-December 2010		
COM(2011)461	27/7/2011	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad area and certain Polish administrative districts in the eligible border area	13/12/2011	Regulation (EU) No 1342/2011 of the European Parliament and of the Council of 13 December 2011 amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad oblast and certain Polish administrative districts in the eligible border area (OJ L 347, 30.12.2011, p. 41)

COM(2011)559	16/9/2011	Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
COM(2011)560	16/9/2011	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 562/2006 to establish common rules regarding the temporary reintroduction of control of internal borders under unusual circumstances	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
COM(2011)561	16/9/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Schengen governance - strengthening the area without internal border control		
COM(2011)680	25/10/2011	Communication from the Commission to the European Parliament and the Council: Smart borders options and the way ahead		
COM(2011)873	12/12/2011	Proposal for a Regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR)	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2012)81	30/4/2012	Proposal for a Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation of Schengen Information System (SIS II) (recast)	20/12/2012	Council Regulation (EU) No 1273/2012 of 20 December 2012 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast) (OJ L 359, 29.12.2012, p. 32)

COM(2012)230	16/5/2012	Communication from the Commission to the European Parliament and the Council: Biannual report on the functioning of the Schengen area (1 November 2011 – 30 April 2012)		
COM(2012)334	22/6/2012	Report from the Commission to the European Parliament and the Council: Progress report on the development of the second generation Schengen Information System (SIS II) July 2011-December 2011		
COM(2011)750	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council – establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2012)254	30/5/2012	Amended proposal for a Regulation of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No [...] [establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] and to request comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast)	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

COM(2012)527	20/9/2012	Proposal for a Decision of the European Parliament and of the Council amending Decision No 574/2007/EC with a view to increasing the co-financing rate of the External Borders Fund for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability		Decision No 259/2013 of 13 March 2013 of the European Parliament and of the Council amending Decision No 574/2007/EC with a view to increasing the co-financing rate of the External Borders Fund for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 82, 22.3.2013, p. 6)
COM(2013)96	28/2/2013	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RPT)	<i>Awaiting committee decision</i>	
COM(2013)97	28/2/2013	Proposal for a Regulation of the European Parliament and of the Council establishing a Registered Traveller Programme	<i>Awaiting committee decision</i>	
COM(2013)197	12/4/2013	Proposal for a Regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

## 5.2. Visa policy

C(2010)3667	11/6/2010	Commission Decision establishing the Handbook for the organisation of visa sections and local Schengen cooperation		
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COM(2010)198	5/5/2010	Proposal for a Council Decision concerning the conclusion of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas	18/1/2011	Council Decision of 18 January 2011 on the conclusion of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas (OJ L 52, 25.2.2011, p. 33)
COM(2010)256	27/5/2010	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement	24/11/2010	Regulation (EU) No 1091/2010 of the European Parliament and of the Council of 24 November 2010 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 329, 14.12.2010, p. 1)
COM(2010)358	5/7/2010	Proposal for a Regulation of the European Parliament and of the Council of the European Union amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement, as amended by Regulation (EC) No 851/2005	15/12/2010	Regulation (EU) No 1211/2010 of the European Parliament and of the Council of 15 December 2010 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 339, 22.12.2010, p. 6)
COM(2010)420	6/8/2010	Proposal for a Commission Decision on the conclusion of an Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic passports	24/02/2011	Council Decision of 24 February 2011 on the signing of the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports (OJ L 255, 21.9.2012, p. 3)
COM(2010)662	12/11/2010	Proposal for a decision of the European Parliament and of the Council on the list of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list		Decision No 1105/2011/EU of the European Parliament and of the Council on the list of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list (OJ L 287, 4.11.2011, p. 9)



COM(2011)290	24/5/2011	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
C(2011)5501	4/8/2011	Commission Decision amending Commission Decision No C(2010)1620 final of 19 March 2010 establishing the Handbook for the processing of visa applications and the modification of issued visas		
C(2011)5499	4/8/2011	Commission Decision amending Commission Decision C(2006)2909 final laying down the technical specifications for travel documents		
COM(2011)516	30/8/2011	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas (Visa Code)	15/2/2012	Regulation (EU) No 154/2012 of the European Parliament and of the Council of 15 February 2012 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) (OJ L 58, 29.2.2012, p. 3)
SEC(2011)1076	19/9/2011	Report from the Commission on the Implementation by Ukraine of the Action Plan on Visa Liberalisation		
SEC(2011)1075	19/9/2011	Report from the Commission on the Implementation by Moldova of the Action Plan on Visa Liberalisation		

C(2011)6999	3/10/2011	Commission Regulation amending Regulation (EC) No 810/2009 of 13 July 2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code)		Commission Regulation (EU) No 977/2011 of 3 October 2011 amending Regulation (EC) No 810/2009 of 13 July 2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code) (OJ L 258, 4.10.2011, p. 9)
COM(2011)750	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council – establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2012)268 (COM(2012)267 = for signature)	4/6/2012	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the Republic of Moldova amending the Agreement between the European Community and the Republic of Moldova on the facilitation of the issuance of visas	<i>Awaiting final decision</i>	
COM(2012)348	22/6/2012	Report from the Commission to the European Parliament and the Council on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation	<i>Preparatory phase in Parliament</i>	
COM(2012)266 (COM(2012)265 = for signature)	5/7/2012	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas	<i>Awaiting final decision</i>	

COM(2012)376	11/7/2012	Report from the Commission to the European Parliament and the Council on the development of the Visa Information System (VIS) in 2011		
COM(2012)443	3/8/2012	Report from the Commission to the European Parliament and the Council: Possible migratory and security impacts of future visa liberalisation for the Republic of Moldova on the European Union – Preliminary Assessment	<i>Preparatory phase in Parliament</i>	
C(2012)5310	6/8/2012	Commission Implementing Decision establishing the list of supporting documents to be presented by visa applicants in Chile, Kazakhstan (Almaty and Astana), Nicaragua and Nigeria (Abuja and Lagos)		
COM(2012)472	28/8/2012	Report from the Commission to the European Parliament and the Council – Third Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries in accordance with the Commission Statement of 8 November 2010	<i>Preparatory phase in Parliament</i>	
COM(2012)650	7/11/2012	Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement	<i>Awaiting committee decision</i>	

## 6. A EUROPE OF RESPONSIBILITY, SOLIDARITY AND PARTNERSHIP IN MIGRATION AND ASYLUM MATTERS

### 6.1. A dynamic and comprehensive migration policy

#### 6.1.1. Consolidating, developing and implementing the Global Approach to Migration

COM(2010)214	6/5/2010	Report from the Commission to the European Parliament and the Council, First Annual Report on Immigration and Asylum (2009)		
COM(2011)248	4/5/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Communication on migration		
COM(2011)291	24/5/2011	Communication from the Commission to the European Parliament and the Council Annual Report on Immigration and Asylum (2010)		
COM(2011)743	18/11/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The Global Approach to Migration and Mobility		
COM(2012)250	30/5/2012	Communication from the Commission to the European Parliament and the Council – Third Annual Report on Immigration and Asylum (2011)		

COM(2012)427	1/8/2012	Report from the Commission to the Council and the European Parliament on the Development of the European Migration Network		
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#### 6.1.2. Migration and development

COM(2011)292	24/5/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A dialogue for migration, mobility and security with the southern Mediterranean countries		
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#### 6.1.3. A concerted policy in keeping with national labour-market requirements

COM(2010)378 Error in Commission documents	13/7/2010	Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
COM(2010)379	13/7/2010	Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals for the purposes of seasonal employment	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
COM(2011)587	28/9/2011	Report from the Commission to the European Parliament and to the Council on the application of Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.		

COM(2013)151	25/3/2013	Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (recast)	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	JHA Council of 7 June 2013
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#### 6.1.4. Proactive policies for migrants and their rights

C(2011)5478	4/8/2011	Commission Decision amending Commission Decision C(2002)3069 laying down a uniform format for residence permits for third-country nationals		
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#### 6.1.5. Integration

SEC(2010)357	19/3/2010	Commission Staff Working Document – Report to the 2010 Ministerial Conference on Integration		
COM(2011)455	20/7/2011	Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - European - Agenda for Integration of Third Country Nationals		
SEC(2011)957	20/7/2011	Commission Staff Working Paper – EU initiatives supporting the integration of third-country nationals		
COM(2011)585	28/9/2011	Report from the Commission to the European Parliament and to the Council on the application of Directive 2009/109/EC on the status of third-country nationals who are long-term		

		residents		
COM(2011)735	15/11/2011	Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC)		

#### 6.1.6. Effective policies to combat illegal immigration

COM(2012)239 (COM(2012)240 = for signature)	22/6/2012	Proposal for a Council Decision concerning the conclusion of the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation	<i>Preparatory phase in Parliament</i>	
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#### 6.1.7. Unaccompanied minors

COM(2010)213	6/5/2010	Communication from the Commission to the European Parliament and the Council – Action Plan on Unaccompanied Minors (2010-2014)		
COM(2012)554	28/9/2012	Report from the Commission to the Council and the European Parliament – Mid-term report on the implementation of the Action Plan on Unaccompanied Minors		

### 6.2. Asylum: a common area of protection and solidarity

#### 6.2.1. A common area of protection

COM(2009)66	18/2/2009	Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office	19/05/2010	Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11)
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COM(2010)314	16/6/2010	Report from the Commission to the European Parliament and the Council on the application of Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection		
COM(2010)465	8/9/2010	Report from the Commission to the European Parliament and the Council on the application of Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status		
COM(2011)319	1/6/2011	Amended proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (recast)	<i>Political agreement reached on 21.3.2013</i>	
COM(2011)320	1/6/2011	Amended proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (recast)	<i>Political agreement reached on 25.10.2012</i>	
COM(2012)254	30/5/2012	Amended proposal for a Regulation of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No [.../...] [establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

		Member States by a third-country national or a stateless person] and to request comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast)		
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#### 6.2.2. Sharing of responsibilities and solidarity between the Member States

COM(2009)66	18/2/2009	Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office	19/5/2010	Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11)
COM(2011)750	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council – establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)751	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	
COM(2011)752	15/11/2011	Proposal for a Regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis	<i>Awaiting Parliament 1<sup>st</sup> reading</i>	

		management		
COM(2011)835	2/12/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on enhanced intra-EU solidarity in the field of asylum		
COM(2012)110	9/3/2012	Communication from the Commission to the European Parliament on the position of the Council on the adoption of a proposal for a Decision of the European Parliament and of the Council of amending Decision no 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC ("establishment of a Joint EU Resettlement Programme")		
COM(2012)526	20/9/2012	Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC, Decision No 575/2007/EC and Council Decision 2007/435/EC with a view to increasing the co-financing rate of the European Refugee Fund, the European Return Fund and the European Fund for the Integration of third-country nationals as regards certain provisions relating to financial management for certain Member States experiencing or threatened with		Decision No 258/2013 of 13 March 2013 of the European Parliament and of the Council amending Decision No 573/2007/EC, Decision No 575/2007/EC and Council Decision 2007/435/EC with a view to increasing the co-financing rate of the European Refugee Fund, the European Return Fund and the European Fund for the Integration of third-country nationals as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 82, 22.3.2013,

		serious difficulties with respect to their financial stability (first reading)		p. 1)
COM(2012)527	20/9/2012	Proposal for a Decision of the European Parliament and of the Council amending Decision No 574/2007/EC with a view to increasing the co-financing rate of the External Borders Fund for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability		Decision No 259/2013 of 13 March 2013 of the European Parliament and of the Council amending Decision No 574/2007/EC with a view to increasing the co-financing rate of the External Borders Fund for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 82, 22.3.2013, p. 6)

### 6.2.3. The external dimension of asylum

COM(2009)66	18/2/2009	Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office	19/05/2010	Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11)
COM(2009)322	8/7/2009	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network	05/04/2011	Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011 amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network (OJ L 141, 27.5.2011, p. 13)

## 7. EUROPE IN A GLOBALISED WORLD – THE EXTERNAL DIMENSION OF FREEDOM, SECURITY AND JUSTICE

COM(2010)198	5/5/2010	Proposal for a Council Decision concerning the conclusion of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas	18/01/2011	Council Decision of 18 January 2011 on the conclusion of the Agreement between the European Union and Georgia on the facilitation of the issuance of visas (OJ L 52, 25.2.2011, p. 33)
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COM(2010)420 Error in Commission documents (COM(2010)409)	6/8/2010	Proposal for a Commission Decision on the conclusion of an Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of diplomatic passports	24/02/2011	Council Decision of 24 February 2011 on the conclusion of the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports (OJ L 255, 21.9.2012, p. 3)
COM(2011)280	19/5/2011	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service	22/09/2011	Council Decision of 13 December 2011 on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (OJ L 186, 14.7.2012, p. 3)
COM(2011)281	19/5/2011	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service	13/12/2011	Council Decision of 13 December 2011 on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (OJ L 186, 14.7.2012, p. 3)
COM(2011)564	26/9/2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on cooperation in the area of Justice and Home Affairs within the Eastern Partnership		
COM(2011)805	23/11/2011	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the use and transfer of Passenger Name Records to the United States Department of Homeland Security Adoption	13/12/2011	Council Decision of 26 April 2012 on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security (OJ L 215, 11 August 2012, p. 4)

COM(2011)807	23/11/2011	Proposal for a Council Decision on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security	26/4/2012	Council Decision of 26 April 2012 on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security (OJ L 215, 11 August 2012, p. 4)
COM(2011)904, 908, 909, 911, 912, 915, 916, 917	21/12/2011	Proposal for a Council Decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the accession of Russian Federation and seven other states to the 1980 Hague Convention on the Civil Aspects of International Child Abduction  <i>(for information: Gabon, Andorra, the Seychelles, Russia, Albania, Singapore, Morocco, Armenia)</i>	<i>Preparatory phase in Parliament</i>	
COM(2012)239	22/6/2012	Proposal for a Council Decision concerning the conclusion of the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation		
COM(2012)266 (COM(2012)265 = for signature)	5/7/2012	Proposal for a Council Decision on the conclusion of the Agreement between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas	<i>Awaiting final decision</i>	
COM(2012)268 (COM(2012)267 = for signature)	4/6/2012	Proposal for a Council decision on the conclusion of the Agreement between the European Union and the Republic of Moldova amending the Agreement between the European Community and the Republic of Moldova on the facilitation of the	<i>Awaiting final decision</i>	

		issuance of visas		
COM(2013)154	22/3/2013	Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime	<i>Preparatory phase in Parliament</i>	





## DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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