Area of freedom, security and justice: strategy for the external dimension, action plan implementing the Hague Programme

2006/2111(INI) - 10/06/2009 - Follow-up document

This Communication from the Commission covers the issue of justice, freedom and security in Europe since 2005: an evaluation of The Hague programme and action plan.

The Hague Programme has been the EU's blueprint for realising its vision in the areas of access to justice, international protection, migration and border control, terrorism and organised crime, police and judicial cooperation and mutual recognition.

The Commission has carefully monitored the implementation of the Programme at EU and Member State level. Individual instruments have been evaluated by the Commission or by Member States through peer reviews. Drawing from these exercises, this Communication highlights the principal themes which have emerged, and looks ahead to how the EU should respond to the challenges of the future.

Three longer documents accompany the communication:

1. a report on the implementation of the programme which details, policy-by-policy, objectives, significant developments and future challenges;
2. an 'institutional scoreboard' which provides an overview of the programme's stated instruments and targets;
3. an 'implementation scoreboard' on implementation at national level.

The priorities for building on what has been achieved will be set out in the next multiannual programme (the Stockholm Programme – see COM(2009)0262).

The Commission concludes that, with regard to The Hague Programme, progress has been mixed, but there have been **visible achievements**:

- **Strengthening freedom**: achievements are visible in the following areas: (i) protection of fundamental rights; (ii) citizenship of the Union; (iii) the Common European Asylum System; (iv) migration and integration; (v) border management; (vi) visa policy; (vii) the external dimension of asylum and migration;
- **Strengthening security**: achievements are visible in the following areas: (i) terrorism; (ii) police cooperation; (iii) organised crime; (iv) European Strategy on Drugs;
- **Strengthening justice**: achievements are visible in the following areas: (i) judicial cooperation in criminal matters; (ii) facilitating civil law procedure across borders; (iii) mutual recognition; (iv) external relations; (v) financial instruments.

Nevertheless, **progress in certain areas remains mixed or limited**. This uneven progress can be to a large extent explained by the unique challenges faced by the JLS area: a relatively young acquis, an insufficient role of the European Parliament in certain policy areas, a limited jurisdiction of the European Court of Justice and a limited competence of Commission to bring infringement, and the requirement for unanimity for decision-making in several areas.

Several elements of the Hague Programme which have not been delivered can be clearly attributed to the failure to ratify the Constitutional Treaty. The accession of the European Union to the **European Convention on Human Rights** has not been possible without the legal basis the Constitutional Treaty would have provided, and which the Lisbon Treaty would provide should it come into force.

Progress was comparatively slow in **mutual recognition in criminal matters and police cooperation**. The decision making process falling under the so-called 'third pillar' method (Title VI TEU) requires unanimity. This often leads to lengthy inconclusive discussions or ambitious proposals being reduced to agreement around lowest-common-denominator texts. A framework decision on procedural rights is one example of a proposal envisaged by the Hague Programme which was not adopted despite the importance attached to it by practitioners throughout Europe.

In addition, for legislative instruments in the third pillar, the **lack of recourse to formal infringement procedures** for ensuring proper transposition, and at times significant delays in the transposition of EU instruments at national level have resulted to some degree in a 'virtual' legislative framework with little or no benefit for the EU citizen.

The EU needs to **learn from past action**, making full use of successful strategies and correcting what could have been done better. The following themes should guide future work across justice, freedom and security policies:

- joined-up thinking and action;
- further attention to implementation and enforcement;
- improving the use of evaluation;
- complementing internal policies though external action.