

Resolution 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

2009/2534(RSP) - 25/11/2009 - Text adopted by Parliament, single reading

Following the debate which took place during the sitting of 24 November 2009, the European Parliament adopted by 487 votes to 122, with 49 abstentions, a resolution on the [multiannual programme](#) on an area of freedom, security and justice serving the citizen (the Stockholm programme) drafted by the its Committees on Legal Affairs, on Civil Liberties, Justice and Home Affairs and on Constitutional Affairs.

The purpose of the resolution is to define Parliament's priorities in regard to the Stockholm programme which details a series of measures in the area of freedom, security and justice (AFSJ) for the 2010-2014 period.

The AFSJ in the framework of the Lisbon Treaty and the main aspects of the Stockholm programme: Parliament notes that the new multiannual programme in the AFSJ is likely to be adopted and implemented under the new legal framework defined by the Treaty of Lisbon. This means that the codecision procedure will apply as the ordinary legislative procedure in the field of AFSJ and that there will be enhanced parliamentary supervision over the various aspects and measures relating to European, policy in the area of justice and home affairs.

The Members consider that the programme should:

- address the problems of migration in solidarity;
- strike a better balance between the security of citizens (e.g. protection of external borders, prosecution of trans-border crime) and the protection of their individual rights;
- provide citizens with fair access to justice; and
- settle the practical problems which citizens face in the European Union in matters subject to different legal orders.

According to Parliament, one of the main objectives should be to ensure that citizens **benefit from an equivalent level of protection of their fundamental rights wherever they are**, and that no-one should suffer disadvantages in exercising fundamental freedoms conferred upon Union citizens.

Stressing the need for a **more transparent** law-making process, the Members announce their intention to create a Parliamentary Forum, open to interested MEPs and members of national parliaments, with a view to providing debate on the various issues which have a bearing on the programme. They also call for the establishment of a concrete monitoring and evaluation system which focuses on the quality, efficiency and fairness of existing legal instruments.

On a more practical level, Members expressed themselves in regard to the programme as follows:

A Europe of rights: among other things, they demand a clear and comprehensive proposal on the rights to be secured to defendants in order to ensure that they receive a fair trial. They also call for a thorough and impartial review of the necessity, proportionality and effectiveness of existing measures in the area of freedom and justice, including their impact on the protection and promotion of EU values and principles and of fundamental rights. They also call for an impact assessment in respect of fundamental rights and EU values to be carried out for every new policy, legislative proposal and programme.

Fighting discrimination: stressing the growing intolerance within the EU, Parliament calls for the full implementation of Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law. Members also call for measures to be taken in favour of the Roma to increase awareness of the Union's anti-discrimination legislation. More generally, Members stress the need to **combat social exclusion** which, in its turn, can lead to discrimination. They also consider it essential that the EU brings forward the issuing of a directive and a European action plan on violence against women.

Stronger rights linked to Union citizenship: welcoming the introduction of the 'citizens' initiative' into the Treaty of Lisbon, Parliament states that it intends to initiate a new proposal for fundamental reform of the law governing elections to the European Parliament in order to encourage European citizens to take part in European elections in their place of residence. They also stress the need for the Member States to fully implement the rights linked to Union citizenship, so that Union citizens can exercise their **right to free movement**, together with members of their family, including both registered partnerships and marriages, and avoid all kinds of discrimination on any ground, including sexual orientation. Members call for the inclusion in the Stockholm programme of a specific section on the appropriate measures needed to empower women's participation in electoral campaigns and political life.

Migration: Members stress the need for the continued development of adequately funded and ambitious regional protection programmes. However, this policy also needs to be complemented by **Community integration policies**, fully respecting fundamental rights. Parliament also points out that immigration and asylum policies should also address the needs of the most vulnerable groups, such as refugees and asylum seekers, and particularly minors and unaccompanied minors. It urges the formulation of a stronger immigration policy **closely connected with other Community policies, especially with employment policy**. Members stress the importance of granting migrants access to justice, housing, education and healthcare. They condemn the collective expulsions to countries where human rights are not respected. They call for proposals for legislation protecting migrants from the abuse of asylum procedures.

Asylum: once again, Members plead in favour of the further development of the Common European Asylum System as respect by the Member States of the status of refugees. Recalling that the right to asylum must be guaranteed to all persons fleeing from conflicts and violence, Members call for an **asylum policy based on solidarity** between Member States and asylum seekers. They consider that a transparent system for assessing Member States' respective reception capacities should be introduced and that a system of **"compulsory and irrevocable solidarity"** be introduced, together with greater cooperation with third countries and notably neighbouring countries. While they favour measures ensuring the voluntary return of illegally staying migrants, Members also urge the adoption of measures to address the obstacles to the exercise of the right to family reunification by third-country nationals residing lawfully in Member States.

Borders and visas: in this area, Members call for the adoption of a comprehensive blueprint setting out the overall objectives and architecture of the Union's integrated border management strategy. Likewise, they stress the need for a strategic approach in the field of visa policy in order to preserve the coherence of actions, internal regulations and external commitments, including the safeguarding of equal treatment of Member States by third countries. As regards FRONTEX, they call for greater parliamentary scrutiny of its activities and support the review of its mandate and an increase in its resources. They also stress the need for the Schengen Information System II (SIS II) and the Visa Information System (VIS), the

keystones of effective control of the Union's external borders, to be able to start operations as soon as possible.

Protecting children: noting that the legal framework for the protection of children has been strengthened by the new Treaty, Members urge the Union to tackle more vigorously any abuses committed against children, such as violence, discrimination, social exclusion and racism, child labour, prostitution and trafficking. They consider that there is an urgent need to address the question of protection of unaccompanied and separated children, given the special risks to which they are exposed. They insist that an EU action plan on unaccompanied minors of third country origin must be set in place.

Data protection and security: Parliament stresses the need to ensure mainstream protection of personal data and privacy in the light of developing technologies. It believes that, before EU action is envisaged in this field, clear criteria should be laid down for assessing the proportionality and necessity of limitations to fundamental rights and that the consequences of any proposal should always be carefully analysed before a decision is taken. It emphasises the need for clearer and tighter limits on exchanges of information between Member States and the use of common EU registers which may be liable to threaten personal integrity.

Civil and commercial justice for families, citizens and business: Parliament considers that the priorities in the field of civil justice must first and foremost meet the needs expressed by individual citizens and business whilst constantly simplifying the machinery of justice and creating simpler, clearer and more accessible procedures in order to guarantee the proper enforcement of fundamental rights and consumer protection. Members call for the adoption of measures to this effect. Other proposals are made with a view to **reaping the full benefits of the single market** through European contract law, in particular, on the basis of the draft common frame of reference (DCFR) – an instrument enabling businesses and consumers to choose freely the European contract law as the law governing their transaction.

Building a European judicial culture: Members call for the creation of a European judicial culture embracing all aspects of the law. They invite the Commission to promote the creation by universities, other specialised institutes of higher education and competent professional organisations of a common system of training points/credits for judges and legal practitioners. They also stress the need for **e-justice facility** for citizens, practitioners and the judiciary (on-line justice at Community scale) to facilitate citizens' and businesses' access to justice.

Priorities in criminal justice: Members made a list of the various measures they would like to see developed with a view to the construction of an EU criminal justice area based on respect for fundamental rights, the principle of mutual recognition and the need to maintain consistency between the national systems of criminal law. Of the battery of measures envisaged, Parliament suggests: i) a legal instrument on procedural safeguards in criminal proceedings, ii) a sound legal framework ensuring the basic principle of *ne bis in idem* and facilitating the transfer of criminal proceedings between Member States and the resolution of conflicts of jurisdiction, iii) a comprehensive legal framework offering victims of crime and in particular victims of terrorism, organised crime, trafficking in human beings and gender violence, the widest possible protection, including adequate compensation, iv) a common legal framework offering witnesses the widest protection, v) **minimum standards for prison and detention conditions** and a common set of prisoners rights in the EU, including appropriate compensation rules for persons unjustly detained or convicted, vi) the adoption of a European legislative instrument to enable the profits and assets of international criminal organisations to be confiscated and reused for social purposes, vii) a comprehensive legal instrument on the taking and admissibility of evidence in criminal proceedings, viii) measures to ensure legal aid through sufficient budgetary allocations, and ix) measures to combat violence, particularly violence against women and children.

A coherent multi-layered security strategy: Members criticise the lack of a comprehensive master plan setting out the overall objectives and architecture of the EU's security and border management strategy.

Given this lack of vision, they call on the Commission and the Member States to strike the right balance between security and freedom while respecting fundamental rights. Parliament is committed, within the new institutional framework defined by the Treaty of Lisbon, to promoting the freedom of EU citizens while protecting them in the appropriate manner. It therefore calls for the development of a common policy against terrorism, organised crime, illegal immigration, human trafficking and sexual exploitation but, at the same time, fair compensation for victims. Members also call for an effective **anti-corruption strategy**. Highlighting the increase in identity theft, Members urge the creation of a comprehensive EU strategy for combating cybercrime in this field to be developed in cooperation with internet providers and user organisations. They also call for the creation of an EU desk offering assistance to victims of identity theft and **identity fraud**, as well as the setting-up of a European Court of Cyber Affairs specialising in matters related to cybercrime.

With respect to strengthening **police and judicial cooperation in criminal matters**, Parliament favours the more systematic involvement of Europol and Eurojust in investigations. It calls on Member States to encourage police cooperation through the promotion of mutual knowledge and trust, common training and the creation of joint teams of police cooperation and of a student exchange programme in cooperation with the European Police College. Members also want the Commission to begin early discussions and consultations on all aspects related to the creation of the **European Prosecutor's Office** for combating crimes affecting the financial interests of the Union.

With the **safety of citizens** in mind, Members call for the development of a comprehensive European security strategy, based on the Member States' security plans and an objective evaluation of the added value of the EU agencies, networks and information exchanges set in place at Union level.

Urgent matters: the resolution focuses on a certain number of measures which need to be tackled urgently. Among these, Parliament calls for the **consolidation of the 1 200 diverse measures adopted in the AFSJ since 1993** in order to bring coherence in this policy area, whilst taking account of the Union's new missions and roles as well as of the new legal framework offered by the Treaty of Lisbon. Parliament considers that, in cases where a legislative procedure has started under the provisions of the Treaty of Nice providing for mere consultation of Parliament, and Parliament's opinion has been delivered, **the legislative procedure should recommence under the Treaty of Lisbon at first reading** in order to give Parliament the opportunity to express its views in awareness of its prerogatives.

Parliament also asks to be informed immediately of planned or pending negotiations on international agreements with a bearing on the AFSJ, in particular those founded on Articles 24 and 38 of the current EU Treaty (e.g. with the United States).

Lastly, Parliament invites the Commission to simplify the financial programmes established to support the creation of the AFSJ and to make them more accessible. In particular, it calls for a mid-term review and evaluation of the Stockholm programme by early 2012.