Resolution on progress made in 2004 in creating an area of freedom, security and justice AFSJ (Articles 2 and 39 of the EU Treaty TEU)

2005/2532(RSP) - 08/06/2005 - Text adopted by Parliament, topical subjects

The European Parliament adopted a resolution drafted by Jean-Marie CAVADA (ALDE, FR) by 360 votes in favour to 272 against with 20 abstentions, on progress made in 2004 in creating an area of freedom, security and justice. Parliament pointed out that, apart from the changeover to codecision for some planned measures on illegal immigration, the desired progress on the AFSJ did not take place in spite of significant developments in other areas of Community activity or even intergovernmental cooperation on defence and security policy. Matters have gradually become deadlocked in the European Council. Parliament cited the failure of most Member States to ratify the Convention on mutual assistance in criminal matters and the difficulties in putting the European arrest warrant into practice. In order to end this deadlock, some Member States have developed forms of cooperation outside the framework of the treaties, such as the 'G5' and 'quasi decision-making' bodies such as the FATF on money laundering, the Dublin Group in relation to combating drugs and the Berne Group in relation to exchanges of information, which are all bodies over which there is no democratic scrutiny. All these factors are affecting the political credibility of the Union, and the legitimacy of its actions.

Doing away with the democratic deficit as a matter of urgency and promoting a uniform legal framework within the AFSJ:

Parliament asked the Council to establish a uniform legal framework for AFSJ-related policies, to move judicial and police cooperation into the Community sphere, and to use qualified-majority voting within the Council plus the codecision procedure for all AFSJ-related policies.

It also drew the Council's attention to the need to ensure that any progress in creating an area of freedom, security and justice is made in the context of sincere cooperation with the European Parliament and in compliance with the principle of democracy. The European Parliament must be involved in the elaboration of European legislation from the outset and not merely once a political agreement has already been reached.

Freedom, security, justice and solidarity:

Parliament felt that AFSJ development measures should be incorporated into the Community sphere, not only from a legal point of view but also in terms of the political objectives to be realised. To that end, the JHA Council ought to open up its proceedings and deliberate with Development, General Affairs and Social Affairs Councils when laying down immigration, integration and readmission policies, and Budget and General Affairs Councils when laying down measures for financial solidarity on certain policies.

Incorporating action to promote fundamental rights:

Parliament restated its firmly held view that establishment of the AFSJ demands an even greater commitment on the part of European and national institutions to promote the highest level of protection of fundamental rights, and made a series of proposals to that end, inter alia, that Parliament should have the same rights as the Council in connection with Commission adoption of implementing measures for Community and Union legislative acts where those acts might affect fundamental rights.

Defining the specific objectives of the EU and its Member States

It called on the Commission to submit to the next European Council meeting a programme for the implementation of the Hague Programme which will, amongst other things, indicate the specific objectives to be achieved in agreement with the Member States during the next five years with regard to reducing crime, protecting individuals and strengthening freedoms.

Justice

It is essential to strengthen Eurojust, with the aim of establishing a European Prosecutor's Office.

Parliament also expressed the wish that further progress be made in the field of judicial cooperation in civil matters, in particular with regard to family law and commercial law.

Policies on migration, asylum and cross-border movement

Parliament called for a genuine European asylum and immigration policy that is fair, equitable and respectful of migrants' fundamental rights. It rejected the outsourcing of asylum and immigration policies and the establishment of immigration camps or portals outside the European Union.

There is a need for a common immigration policy that is not confined to combating illegal immigration. Parliament urged that a legal immigration policy be implemented. A European migration policy should be accompanied by a European integration policy providing, among other things, for proper integration on the labour market, the right to education and training, access to social and health services, and immigrants' participation in social, cultural and political life.

Parliament went on to state that it was extremely concerned by the EU's return policy, in particular joint flights for the removal of immigrants. Readmission agreements with third countries should be based on genuine dialogue and take account of the needs of such countries. This dialogue should allow political cooperation and co-development in order to tackle the causes of migration.

Parliament also reminded the Commission of its obligations towards those in need of protection.

Combating organised crime and terrorism

Parliament considered it regrettable in this connection that:

-there is as yet no genuine European domestic security strategy laying down tangible objectives, where implementing responsibility lies, what outcomes are expected and objective performance assessment criteria,

-in spite of this vagueness as to the objectives to be realised at European level, Member States are insisting on the adoption of blanket measures to gather and access data - both data relating to operations (pursuant to the data availability principle) and data relating to individuals' daily activities (travel, communications).

It went on to call on the Commission to submit a Community legal basis for EUROPOL, and to submit the legal basis for establishing a European list of persons, groups and activities subject to restrictive anti-terrorism measures and a list of persons potentially presenting a public-order risk.

A policy of blanket surveillance, proportionality imperatives and data protection

Parliament felt that constraints on surveillance cannot be brushed aside by simply invoking the new imperatives of the fight against terrorism and organised crime. Rather, that there must be prior agreement on the objectives to be pursued and, consequently, the information which is essential to achieve what is sought must be defined and placed at the disposal of the competent authorities for an appropriate period. Parliament repeated its call to switch from a 'pull' system to a 'push' system for the transmission of data to the US authorities, and harbours the utmost reservations as to the establishment of a European PNR system to be placed under the responsibility of EUROPOL.

Parliament also drew attention to the need to strengthen the security of travel documents. However, the technical solution chosen is of prime importance since it will be the sole means of guaranteeing the effective use of biometrics and the physical protection of data, in particular against unauthorised access.

It took issue once again with the lack of transparency and public debate as to the choice of this type of technology and negotiations both at ICAO technical group level and with the US Administration. Parliament restated its opposition to the use of RFID chips on European citizens' passports, and called on the Commission to examine these technologies in detail before making them mandatory for hundreds of millions of passports.