Basic information

2010/2080(INI) INI - Own-initiative procedure	Procedure completed
Civil law, commercial law, family law and private international law aspects of the action plan implementing the Stockholm programme **Subject** 1.10 Fundamental rights in the EU, Charter 3.45.01 Company law 4.10.02 Family policy, family law, parental leave 7 Area of freedom, security and justice 7.40.02 Judicial cooperation in civil and commercial matters 8.50 EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	BERLINGUER Luigi (S&D)	28/04/2010

Committee for opinion	Rapporteur for opinion	Appointed
INTA International Trade	HIGGINS Joe (GUE/NGL)	01/06/2010
IMCO Internal Market and Consumer Protection	PANZERI Pier Antonio (S&D)	02/06/2010
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	The committee decided not to give an opinion.	
FEMM Women's Rights and Gender Equality	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3018	2010-06-03

European Commission

Commission DG	Commissioner
Justice and Consumers	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
20/04/2010	Non-legislative basic document published	COM(2010)0171	Summary
03/06/2010	Resolution/conclusions adopted by Council		Summary
17/06/2010	Committee referral announced in Parliament		
20/09/2010	Vote in committee		Summary
24/09/2010	Committee report tabled for plenary	A7-0252/2010	
23/11/2010	Decision by Parliament	T7-0426/2010	Summary
23/11/2010	Results of vote in Parliament		
23/11/2010	End of procedure in Parliament		

Technical information

Procedure reference	2010/2080(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Strategic initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/02908

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE442.911	05/07/2010	
Committee opinion	INTA	PE443.132	30/08/2010	
Amendments tabled in committee		PE445.987	06/09/2010	
Committee opinion	IMCO	PE443.068	14/09/2010	
Committee report tabled for plenary, single reading		A7-0252/2010	24/09/2010	
Text adopted by Parliament, single reading		T7-0426/2010	23/11/2010	Summary

European Commission

Document type	Reference	Date	Summary
	COM(2010)0171		

Non-legislative basic document		20/04/2010	Summary
Commission response to text adopted in plenary	SP(2011)1476	02/05/2011	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2010)0171	07/06/2010	
Contribution	CZ_SENATE	COM(2010)0171	25/06/2010	
Contribution	SE_PARLIAMENT	COM(2010)0171	13/12/2010	

Civil law, commercial law, family law and private international law aspects of the action plan implementing the Stockholm programme

2010/2080(INI) - 23/11/2010 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on civil law, commercial law, family law and private international law aspects of the Action Plan Implementing the Stockholm Programme.

Recalling that, from its point of view, Union law must be at the service of citizens, notably in the areas of family law and civil status, the European Parliament congratulates the Commission on its proposed Action Plan. It considers, nonetheless, that the time is ripe for reflection on the future development of the AFSJ and to launch a debate involving all interested parties. It calls on the Commission to take stock of the measures which have already been adopted in the field of civil and family law, with a view to appraising their effectiveness and ascertaining to what extent they have proved successful in achieving their aims and determine, with the legal profession, in what areas new measures in the field of judicial cooperation in civil matters are necessary.

Overall, Parliament recognises the need to respect and accommodate radically different legal approaches and constitutional traditions but it considers that it is necessary to address the adverse legal consequences for citizens arising from these divergences, and underlines that the divergences between legal systems should not constitute a barrier to the further development of European law. The Commission must make sure that the Stockholm Action Plan truly reflects the needs of individual citizens and business, particularly small and medium-sized enterprises, for more Europe (in respect of mobility, employment rights, the needs of business, equal opportunities) while promoting legal certainty and access to rapid and efficient justice.

Towards a European judicial culture: Parliament reiterates its call s to use every possible means to nurture a European judicial culture, particularly through **legal education and training**. To achieve this, it recommends the following measures:

- going beyond the Erasmus-type programmes proposed in the Action Plan, in order to foster vertical and horizontal communication between national and European courts;
- beefing up existing education and training networks and establish new ones;
- creating a regular forum where judges of all levels of seniority in areas of law where cross-border issues frequently arise in order to encourage discussion, build contacts, create channels of communication and collaboration and build mutual confidence and understanding, particularly in universities;
- encouraging dialogue and communication between European legal professional bodies with a view to further cross-border training initiatives in partnership with organisations such as the Academy of European Law (ERA);
- strengthening and facilitating all possible forms of funding for transnational projects in legal and judicial education and training in the area of civil justice, given that the funding currently available from the Commission is very difficult to access due to an inflexible system;
- ensuring that Union law and comparative law become key elements of law courses;
- encouraging students to participate in Erasmus-type programmes as part of their legal studies and requiring that future lawyers have a good knowledge of at least one other Union official language.

A European Judicial Academy: as far as funding is concerned, and bearing in mind the Stockholm programme's ambitious goal of offering European training schemes to half of the judges, prosecutors, judicial staff and other professionals involved in European cooperation before 2014, Parliament points out that various European legal organisations (e.g. the Network of the Presidents of the Supreme Judicial Courts, the European Network of the Councils for the Judiciary, etc.) have a huge amount to offer by coordinating and promoting professional training for the judiciary and mutual understanding of other Member States' legal systems and that their activities must be facilitated and receive sufficient funding. In its view, any European judicial training plan must include these various networks, thus avoiding duplication and preparing the ground for the **creation of a European Judicial Academy** composed of the European Judicial Training Network and the Academy of European Law.

Involve legal profession in the drafting of Union legislation: Parliament considers that especially at the stage of the drafting of Union legislation in the field of, in particular, civil and family law, room should be created for national and Union judges to have a say on the purely technical aspects of proposed measures in order to ensure that the future legislation may be implemented and applied with a minimum of difficulty by national judges.

Settling the question of procedural law: Parliament considers that the Commission should give priority to tackling the difficulties brought about by divergences in national procedural law (e.g. in limitation periods and the treatment of foreign law by the courts). In particular, it suggests that the date for the Commission's report on the functioning of the present EU regime on civil procedural law across borders should be brought forward from 2013 to the end of 2011 and it urges it to present a proposal for a common limitation period in cross-border disputes involving personal injuries and fatal accidents as a matter of urgency.

Strengthened cooperation for the taking of evidence: recalling the main points of Parliament's resolution of 10 March 2009 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, Parliament urges the Commission to take action to improve cooperation between the Member States' courts for the purposes of taking evidence and enhancing the efficiency of Regulation (EC) No 1206/2001, in particular by ensuring that courts and practitioners are better informed about it and that they promote the extensive use of information technology and video-conferencing.

Transparency of debtors' assets: although Parliament welcomes the fact that the Action Plan proposes a legislative initiative for a regulation on improving the efficiency of the enforcement of judgments concerning the transparency of debtors' assets and a similar regulation concerning the attachment of bank accounts, it calls on the Commission to move forward with those initiatives as quickly as possible, focusing on the possibility of a self-standing European remedy to disclose and/or freeze assets in cross-border cases.

Towards more uniformity and less bureaucracy: Parliament calls on the Commission and the Member States to ensure the more uniform application of EU legislation (in its procedural aspects), with the focus on standardised rules and administrative procedures which should apply in areas of Union competence such as taxation, customs, trade and consumer protection, subject to the limits of the EU Treaties, with a view to the **proper functioning of the single market and freedom of competition**. Members strongly support the Commission in its goal of enacting legislation that reduces business and transaction costs, particularly for SMEs, as well as all initiatives taken to reduce administrative, financial and regulatory burdens.

The AFSJ at the service of the single market: Parliament points out that, in accordance with the Lisbon Treaty, consumer protection should be taken into account in defining and implementing other Union policies and activities. Overall, Parliament underlines that the correct functioning of the single market supports the European AFSJ and contributes to strengthening the European social market economy model, as well as consumer protection. It also emphasises the importance of the proposed new Consumer Rights Directive, as well as of the upcoming modernisation of the directive on package travel, the Unfair Commercial Practices Directive and the directive concerning misleading and comparative advertising. It also calls for:

- the removal of all barriers to the development of e-commerce by both legislative and non-legislative means;
- a solution to be found to cross-border trade problems for online consumer purchases, inter alia by stepping up the fight against cyber-crime and counterfeiting;
- the development of an EU charter of consumers' rights in the area of online services and e-commerce;
- the European Parliament to be kept immediately and fully informed of the advancement of ACTA at all stages of the negotiations.

Parliament draws particular attention to the problems relating to the legal uncertainty of commercial exchanges from and to non-EU countries, and to the issue of which jurisdiction is competent for the **settlement of a given dispute**. Noting that while principles of private international law do exist, their implementation raises a number of problems primarily affecting consumers and small businesses. It therefore emphasises the need for a coherent approach to be adopted on an international level in this regard.

Company law: recalling Parliament's recommendations to the Commission on the cross-border transfer of the registered office of a company, as well as certain basic provisions of European legislation in that area, Parliament notes the dictum in the Cartesio case to the effect that, in the absence of a uniform Union law definition of the companies which may enjoy the right of establishment on the basis of a single connecting factor determining the national law applicable to a company, the question whether Article 49 TFEU applies to a company which seeks to rely on the fundamental freedom enshrined in that article is a preliminary matter which, as Union law now stands, can only be resolved by the applicable national law. It observes that this evidences a lacuna in Union law and reiterate their call for this lacuna to be remedied.

Involvement of the European Parliament in discussions on the Hague Conference: Parliament calls on the Commission to use its best endeavours to revive the project for an international judgments convention, by involving the European Parliament and by calling on other countries, in particular the United States, to resume negotiations on the question. It calls, in particular, upon the Commissioner for Justice to ensure that, in future, Parliament is more closely involved with the activities of the Commission and the Council at the Hague Conference through Parliament's observer. In the meantime, it proposes the settling up of an interparliamentary forum on the work of the Hague Conference. They observe that the Commission has set up a working group on arbitration. They caution the Commission against adopting any legislative initiative in this area without involving the European Parliament to the full. In the meantime, Parliament decides to set up an interparliamentary forum on the work of the Hague Conference. It urges the Commission to take steps to ensure that the EU ratifies the Hague Convention of 19 October 1996 on the Protection of Children.

Working group on arbitration: Parliament notes that the Commission has set up a working group on arbitration. In this context, it cautions the Commission against adopting any legislative initiative in this area without holding open consultations while involving the European Parliament to the full. It calls on the Commission to ensure that a representative of the competent parliamentary committee is invited to take part in all such working groups and considers that, without detracting from the Commission's right of initiative, the European Parliament should have the right to nominate a member or members of such working groups in order to ensure that they are truly representative.

Recognition of official documents: Members stress the need to ensure **mutual recognition of official documents issued by national administrations**. They welcome the Commission's efforts to empower citizens to exercise their free movement rights and strongly support plans to enable the mutual recognition of the effects of civil status documents. They call for further efforts to reduce barriers for citizens who exercise their rights of free movement, particularly with regard to access to the social benefits to which they are entitled and their right to vote in municipal elections.

Civil law, commercial law, family law and private international law aspects of the action plan implementing the Stockholm programme

2010/2080(INI) - 20/04/2010 - Non-legislative basic document

PURPOSE: to propose an Action Plan Implementing the Stockholm Programme.

BACKGROUND: the Stockholm programme adopted by the European Council in December 2009 sets the priorities for developing the European area of freedom, security and justice in the next five years. Its contents reflect the discussions with the European Parliament, the Council, Member States and stakeholders over the recent years. At its core are the ambitions the Commission outlined in its June 2009 Communication which led to the adoption of the Stockholm Programme.

The main thrust of Union's action in this field in the coming years will be 'Advancing people's Europe', ensuring that citizens can exercise their rights and fully benefit from European integration. It is in the areas of freedom, security and justice that citizens expect most from policy-makers as this is affecting their daily life. Women and men in Europe rightly expect to live in a peaceful and prosperous Union confident that their rights are fully respected and their security provided.

The aim of this action plan is to deliver those priorities, both at European and global level. The entry into force of the Lisbon Treaty enables the Union to demonstrate greater ambition in responding to the day-to-day concerns and aspirations of people in Europe. Firstly, the increased role of the European Parliament as co-legislator in most areas and the greater involvement of national parliaments will make the EU more accountable for its actions in the interests of the citizen and enhance the democratic legitimacy of the Union. Secondly, the introduction of qualified majority voting in the Council for most policy areas will streamline decision-making. And finally, judicial review will be improved as the European Court of Justice will assume judicial oversight of all aspects of freedom security and justice, while the EU Charter of Fundamental Rights becomes legally binding.

CONTENT: the mains themes set out in the Action Plan may be summarised as follows:

1) Ensuring the protection of fundamental rights: the Commission intends to develop the following measures:

- application of a "Zero Tolerance Policy" as regards violations of the Charter of Fundamental Rights;
- reinforce its mechanisms to ensure compliance with the Charter and report on it to the European Parliament and Council;
- ensure that the fundamental right to data protection is consistently applied and strengthen the EU's stance in protecting the personal data of the individual in the context of all EU policies, including law enforcement and crime prevention as well as in international relations;
- provide a robust European response to violence against women and children, including domestic violence and female genital mutilation, to safeguard children's rights and to fight all forms of discrimination, racism, xenophobia and homophobia;
- reduce the differences in the guarantees provided to victims of crime and terrorism across the 27 Member States with a view to increasing protection by all means available.

2) Empowering European citizens: citizens need to be able to benefit from their rights stemming from European integration:

- free movement is a core right of EU citizens and their family members and it needs to be rigorously enforced. Mobility should be enhanced by removing the barriers citizens still face when they decide to exercise their rights to move to a Member State other than their own to study or work, to set up a business, to start a family, or to retire;
- facilitating and encouraging citizens' participation in the democratic life of the Union is crucial for bringing the citizen's closer to the European project. Increased turnout at European Parliament elections is a shared ambition;
- the right of citizens to vote and be elected for local and European elections where they reside should be further promoted and strengthened. The Citizen's Initiative is a powerful boost for European citizens' rights and the democratic legitimacy of the Union.

3) Strengthening confidence in the European judicial area: the European judicial area and the proper functioning of the single market are built on the cornerstone principle of mutual recognition. This can only function effectively on the basis of mutual trust among judges, legal professionals, businesses and citizens. Mutual trust requires minimum standards and a reinforced understanding of the different legal traditions and methods:

- make rights and obligations more accessible;
- support economic activity in the single market, ensuring a high level of consumer protection;
- facilitate mobility and divorce/separatations and remove the current legal uncertainty for children and their parents in cross-border situations. Barriers should also be elimated as regards the recognition of legal acts and lead to the mutual recognition of the effects of civil status documents;
- improve legal certainly in case of an accident in another Member State;
- delete the *exequatur* process to recognise and enforcea judgment in another jurisdiction whilst maintaining the necessary safeguards;
- ensure that cross-border debt can be recovered as easily as domestic debt;
- improve European contract law.

As regards **criminal law**, focus will remain primarily on mutual recognition and the harmonisation of offences and sanctions will be pursued for selected cases. Criminals should not be able to avoid prosecution and prison by crossing borders and exploiting differences between national legal systems. A solid common European procedural base is needed. A new and comprehensive system for obtaining evidence in cross-border cases and better exchange of information between Member States' authorities on offences committed are essential tools to developing a functioning area of freedom, security and justice. The Commission will prepare the establishment of a **European Public Prosecutor's Office** from Eurojust, with the responsibility to investigate, prosecute and bring to judgement offences against the Union's financial interests. In doing so, the Commission will further reflect on the cooperation with all the actors involved, including the European Anti-Fraud Office (OLAF).

4) Ensuring the security of Europe: it is envisaged to adopt a coordinated approach to police cooperation, border management, criminal justice cooperation and civil protection. All the common security threats from terrorism and organised crime should be addressed. Given the increasing use of new technologies, tackling efficiently those threats also requires a complementary policy ensuring the preparedness and resilience of Europe's networks and ICT infrastructure.

The following measures are set out:

- pool Member State's law enforcement capabilities on specific drugs and routes;
- exploit measures on organised crime need to use the new institutional framework as regards trafficking in human beings, child pornography, cyber crime, financial crime, counterfeiting of means of payment and drugs trafficking. More effective prosecution and conviction are as important as attending to the needs of the victims of these crimes and reducing the demand for services from potential victims;
- Improve cooperation between the EU agencies and bodies such as FRONTEX, Europol and Eurojust, as well as OLAF;
- pursue and integrated approach to the control of access to its territory in an enlarged Schengen area, to further facilitate mobility and ensure a high level of internal security;
- pursue visa liberalisation in particular with neighbouring countries in order to facilitate people-to-people contacts based on clearly defined conditions;
- pursue protection measures against dangerous goods ;
- fine-tune crisis-management measures by strengthening EU civil protection;
- implement the solidarity clause.

5) Putting solidarity and responsibility at the heart of our response: the Union will develop a genuine common migration policy consisting of new and flexible frameworks for the admission of legal immigrants. Other proposes measures include:

- a uniform level of rights and obligations for legal immigrants comparable with that of European citizens. These rights, consolidated in an immigration code, and common rules to effectively manage family reunification are essential to maximise the positive effects of legal immigration for the benefit of all stakeholders and will strengthen the Union's competitiveness;
- the integration of migrants will be further pursued, safeguarding their rights whilst also underlining their own responsibilities to integrate into the societies in which they live;
- create a genuine partnership with third countries of origin and transit and the incorporation of all migration issues in a comprehensive policy framework;
- ensure uniform status, high common standards of protection in the EU and a common asylum procedure, with mutual recognition as the long term goal. Solidarity will be at the heart of asylum and resettlement policy.

6) Contributing to a global Europe: internal and external policies in the area of freedom, security and justice are inextricably linked. Continuity and consistency between internal and external policies are essential to produce results, as is coherence and complementarity between the Union and Member States' action. The Lisbon Treaty offers new possibilities for the European Union to act more efficiently in external relations. Under this Treaty, the Commission has a key role to play in delivering the EU's external dimension of Justice and Home Affairs. Under this Treaty, the High Representative/Vice President of the Commission and the Commission will ensure coherence between external relations and the other aspects of the EU external action, including in working with the European External Action Service.

7) From political priorities to actions and results: the methodology is five-fold:

- better integration with the other policies of the Union;
- improving the quality of European legislation;
- better implementation at national level;
- improving the use made of evaluation tools;
- and matching political priorities with adequate financial resources, within the multiannual financial framework.

The Commission includes a table which lays down a guide for the Union's action in the area of freedom, security and justice in the next five years. It aims at delivering all the political objectives set out by the European Council in the Stockholm Programme, to respond to European Parliament priorities in these areas and to meet the challenges ahead. It includes concrete actions with a clear timetable for adoption and implementation. The Commission regards these actions as inter-linked, indispensable and consistent with the scale of ambition the Union needs to demonstrate.

The Commission will also submit a **mid-term** review of the implementation of the Stockholm Programme in 2012, in order to ensure that the programme remains in line with European and global developments. It invites the European Parliament and Council to endorse this Action Plan for delivering the Stockholm Programme and to actively engage in its implementation.

Civil law, commercial law, family law and private international law aspects of the action plan implementing the Stockholm programme

2010/2080(INI) - 03/06/2010

The Council adopted conclusions on the Commission Communication "Delivering an area of freedom, security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme".

The Council emphasized strongly that the Stockholm Programme is the only guiding frame of reference for the political and operational agenda of the European Union in the Area of Justice, Security and Freedom. In this context, it:

- aims to respect institutional prerogatives of the European Parliament, which in most of the legislative measures to be adopted in implementation of the Stockholm Programme is a colegislator with the Council;
- is mindful of the Commission’s and the Member States' right of initiative in matters dealt with in the Treaties as provided for under Article 76 TFEU;
- underlines that the Stockholm Programme has to be implemented in strict compliance with the legal bases laid down in the Treaties and the principles of solidarity, subsidiarity and proportionality, and that it is important that before any new legislative proposal or initiative is submitted, studies and impact assessments have been carried out.

The Council notes however that some of the actions proposed by the Commission are not in line with the Stockholm Programme and that others, being included in the Stockholm Programme, are not reflected in the Communication of the Commission.

The Commission is urged in this regard to take only those initiatives that are in full conformity with the Stockholm Programme in order to ensure its complete and timely implementation. It is also called upon to present the mid-term review of the implementation of the Stockholm programme by June 2012, taking due account of these Council Conclusions.

The Council calls on all parties concerned to ensure due implementation of all necessary measures and actions stemming from the Stockholm Programme, including those not present in the above Commission proposal, in order to attain the 2010- 2014 strategic objectives in the Area of Justice, Freedom and Security.