



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: Presidency
to: Coreper/Council

Subject: **Stockholm Programme mid-term review**

Introduction

The European Council adopted the Stockholm Programme¹ in 2009 and asked that a mid-term review of its implementation be made in the course of 2012. The Cyprus Presidency wishes to contribute to that review by submitting the following assessment of progress, in view of a debate in the JHA Council in December 2012.

¹ Council document 17024/09, adopted by the European Council on 10/11 December 2009

Asylum / Migration

As foreseen in the Stockholm Programme ,building on the 2008 European Pact on Immigration and Asylum, work in the area of asylum and migration focused on a comprehensive set of measures relating to the Common European Asylum System, Legal migration, Borders, Visa and Readmission as well as on Schengen.

The Commission has reported yearly on Immigration and Asylum through its Annual Reports on Immigration and Asylum, which covered also the implementation of the Stockholm programme

In the area of asylum, the main objective fixed by the Stockholm programme was the establishment of a **Common European Asylum System** (CEAS) by the end of 2012. Work is progressing well. The Parliament and Council adopted in December 2011 the Qualification Directive (standards for the qualification of third-country nationals as beneficiaries of international protection). Political agreement has been reached on the Reception conditions Directive as well as on most of the so-called "Dublin" Regulation, where rules on comitology still have to be agreed by Parliament and Council. Final adoption of both texts is expected soon. Work on the Asylum procedures Directive is ongoing. Several trilogues have taken place and is expected that agreement can be reached before the end of the year. The Council adopted in October 2012 a general approach to the Eurodac Regulation, based on an amended proposal by the Commission from 30 May 2012. Discussions with the European Parliament are still needed. The objective remains to reach a political agreement this year and it is hoped this can be achieved.

The **European Asylum Support Office** (established in 2010) became operational in June 2011. EASO is intended to help improve the implementation of the CEAS and strengthen practical cooperation among Member States. The Office will also continue to have a central role in the further development of **solidarity** in the field of asylum, in line with the Commission's December 2011 Communication on this issue, related Council Conclusions of March 2012 and the Parliament's Resolution of September 2012.

On the external dimension of asylum, the **Joint EU Resettlement Programme** was adopted by Parliament and Council in March 2012. The development of **Regional Protection Programmes** continued with the prolongation of the programmes in Eastern Europe and in Tanzania and the creation of two new programmes in 2010: in the Horn of Africa (including Kenya, Yemen and Djibouti) and Eastern North Africa (Egypt, Libya and Tunisia).

In order to address the growing challenge of **Unaccompanied Minors**, the Commission presented in May 2010 an Action Plan for the period 2010-2014, which was also the basis for Council Conclusions adopted in June 2010. On 28 September 2012 the Commission presented a mid-term report on the implementation of the Action Plan.

On **Legal Migration**, the Parliament and the Council adopted in December 2011 the directive on the single permit for third-country nationals to reside and work in Member States. Work is ongoing concerning the proposals for Directives on Intra-corporate transferees and Seasonal workers which were submitted by the Commission in July 2010 and which complete the Policy Plan on Legal Migration from 2005. Trilogues for Intra-corporate transferees have commenced whereas for Seasonal workers are expected to start soon. The Commission also is expected to submit, at the beginning of next year, a proposal for amending the Directives concerning the admission of third-country nationals for the purpose of studies or scientific research.

The EU Immigration Portal was launched to inform potential migrants on the possibilities for legally entering the EU, as well as on the dangers associated with trying to enter irregularly.

After extensive consultations, it was decided not to reopen the Directive 2003/86/EC on the right to **family reunification** of third-country nationals living in the EU but to reinforce the implementation of the existing rules. The Commission, therefore, decided to convene an expert group on family reunification to help improve the implementation of the Directive as well as cooperation among Member States. It was also asked to consider drawing up interpretative guidelines with the same purpose.

On **integration**, the Commission's European Agenda for the Integration of Third-Country Nationals, which outlines how the objectives of the Stockholm Programme and the Europe 2020 Strategy in terms of integration could be achieved, was the basis for Conclusions adopted by the Council and Representatives of the Member States in December 2011. The aim is to ensure that integration issues are being incorporated in the relevant policy areas.

Illegal immigration

In order to maintain credible and sustainable immigration and asylum systems in the Union, the Stockholm Programme highlighted the necessity to prevent, control and combat illegal immigration as the Union faces increasing pressure from illegal immigration flows, and particularly the Member States at its external borders, including at its Southern borders in line with the Conclusions of the European Council of October 2009.

To this end, the *EU Action on Migratory Pressures – A Strategic Response* was approved by the JHA Council in April 2012. This "roadmap" brings together in a coherent manner the various measures to effectively reduce illegal immigration and, since it is a "living document" is updated and reviewed under each subsequent Council Presidency.

As regards the EU policy on **readmission**, in the context of fight against illegal immigration, the relevant agreements with Pakistan, and Georgia have entered into force. Those with Turkey, Cape Verde, Armenia and Azerbaijan are expected to be signed in the near future, with a view to their conclusion after the consent of the European Parliament.

In May 2012, the Council adopted Conclusions, building upon a Commission Communication, on the renewed **Global approach to Migration and Mobility**. These Conclusions define the objectives of the EU in its external action on migration, mobility as well as on asylum, the subjects of cooperation with third partners and the tools that need to be implemented and developed. Special importance can also be attached to the launch in 2011 of dialogues on migration, mobility and security with Morocco and Tunisia, in the perspective of establishing Mobility Partnerships with these countries.

Borders

A number of initiatives to strengthen the role of **Frontex** have been taken, such as the Regulation amending the Frontex Regulation, measures for cooperation between Frontex and EASO as well as with other Agencies, and the opening of the Frontex Operational Office in Greece. Frontex has also signed working arrangements with a number of third countries, including on capacity building measures. Before the end of the period covered by the Stockholm Programme, the long term development of Frontex, including the feasibility of the creation of a European system of border guards, should be addressed.

In addition, a proposal is being discussed on **Eurosur**, with a proposed date of 1 October 2013 for Eurosur becoming operational.

The Commission is expected to present the **Smart Borders Package** and has decided in that context not to present a proposal on a European ESTA at this stage. **Visa**

The **Visa Information System** VIS has started its operations in October 2011 and is gradually being rolled out worldwide. Visa facilitation agreements have been concluded with a number of third countries while other such agreements are being negotiated. Work is also ongoing on amendment of Regulation 539/2001 to provide for a reinforced visa reciprocity mechanism as well as a suspension clause. The visa lists established by this Regulation are also regularly reviewed.

The Visa Code became applicable on 5 April 2010. The Commission will assess the implementation of the Visa Code in 2013 and propose amendments in view of improving the visa issuing process. In 2014, a Communication by the Commission is expected on a new concept of the European visa policy and assessing the possibility of establishing a common European issuing mechanism for short term visas.

Schengen

Work continues on the enlargement of the Schengen zone. On 19 December 2011, Liechtenstein became the 26th country to join the Schengen area.

Work continues on successfully enlarging the Schengen area with Bulgaria and Romania.

The Council in June 2012 agreed texts on the **Schengen Governance Package** providing for a stronger role for the Commission and Frontex in a revised Schengen evaluation mechanism and for a number of changes to the Schengen Borders Code. These texts are now the basis for the Council in its discussions of the relevant legislative proposals with the European Parliament.

Work continues towards bringing the IT Agency into operation as scheduled by the end of 2012 and finalising the SIS II project in the first quarter of 2013.

Cooperation in the area of Justice

The Stockholm Programme established as a priority to focus on the interests and needs of citizens.

The challenge is to ensure respect for fundamental freedoms while guaranteeing security in Europe.

Fundamental rights/ Citizenship of the Union

The Stockholm Programme calls on the EU institutions and Member States to ensure that legal initiatives remain consistent with fundamental rights "throughout the legislative process. The Commission adopted a strategy to ensure that all EU laws are in compliance with the Charter at each stage of the legislative process and then in their application by EU Member States. The Commission publishes an Annual Report on the Charter's application.

Accession of the Union to the European Convention on Human Rights

Accession of the Union to the European Convention on Human Rights is considered a key objective by the Stockholm Programme. While recognising the political and technical difficulties, one should regret that the negotiations between the Union and the 47 Council of Europe member states have not yet come to fruition.

Negotiations are on-going in Strasbourg with the 47 Member States of the Council of Europe and the Commission as negotiator on behalf of the Union.

Recent sessions took place in June, September and November 2012, a fourth one being scheduled for January 2013.

In parallel, work must be taken forward on the basic principles concerning the **internal rules** which the EU will have to adopt as a consequence of the accession.

Rights of the Child

The Commission identified, in the EU Agenda for the Rights of the Child of February 2011, 11 priority actions where the contribution by EU institutions, Member States and civil society brings added value to the protection and promotion of the rights of the child.

Vulnerable groups

The Stockholm Programme called for a concerted effort to fully integrate vulnerable groups. In line with this, the Commission presented in April 2011 the EU framework for national Roma integration strategies.

The need to protect particularly vulnerable victims of crime, including women, has been addressed by the recently adopted Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime.

Data Protection

The Commission presented in January 2012 a comprehensive Data Protection package composed of a general Data Protection Regulation and a Directive on the protection of individuals with regard to the processing of personal data for law enforcement purposes. Discussions on the package are progressing and the Council is committed to ensuring fast progress.

Civil law

The Commission has submitted extensive proposals in the area of **civil law** reinforcing the creation of a European judicial area based on the principle of mutual recognition of judicial and extrajudicial judgements.

In the area of **family law**, the Council adopted a Decision authorising enhanced cooperation in the area of the law applicable to divorce and legal separation and a Regulation implementing this cooperation. This is the first enhanced cooperation established at European level.

The Commission has also submitted proposals on jurisdiction, applicable law, recognition and enforcement of judgments in matters of matrimonial property regimes and of judgements regarding the property consequences of registered partnerships. Despite the technical challenges, work is progressing positively in the Council on these proposals and promoting the coherence with the other instruments, in particular with the Succession Regulation and the revision of the Brussels I Regulation.

The Council has also adopted a Regulation on succession, creating a European Certificate of **Succession**, which is of great importance for citizens.

In the field of **commercial law**, after having agreed with the European Parliament, the Council will adopt soon the revision of the Brussels I Regulation, which is a pillar of the European judicial area and by means of which the "*exequatur*" procedure will be abolished. In addition, the Council has made substantial progress towards adoption of a Commission proposal that is of importance in the context of the current financial situation, on cross-border debt recovery in civil and commercial matters. The Council expects that the Commission will shortly submit a proposal revising the Regulation on insolvency.

The Commission submitted an extensive proposal creating a **European Sales Law**. A number of Member States consider that this proposal goes a step beyond what was requested by the Stockholm Programme. The relevant working party of the Council is conducting a careful and in-depth examination of the proposal, which requires considerable effort on the part of many Member States.

As part of a wider victims' package, the Council also made substantial progress on a proposal on mutual recognition of **protection measures** in civil matters, which strengthens the rights of victims in the European Union and complements the Directive on the European protection order in criminal matters.

Moreover, it should be recalled that the Commission was requested to develop a strategy on the international presence of the EU in the specific area of civil law. The Commission is requested to swiftly submit such a proposal. Finally, the Commission is expected to submit proposals on the review of the Brussels IIa Regulation, the Regulation on the service of judicial and extrajudicial documents and instruments relating to civil status documents as well as the simplification of legalisation of documents.

Criminal law

The development of **criminal law** after the entry into force of the Lisbon Treaty has substantially progressed and the Commission issued a communication setting out how criminal law at EU level can ensure the effective implementation of EU policies. The European Parliament and the Council have worked closely together with a view to strengthening the fight against trafficking of human beings, sexual exploitation of children, cyber criminality and protection of women and victims of crime. Effective implementation of these instruments should continue, and new areas should be examined where necessary, including Euro counterfeiting money laundering and drugs trafficking.

In the light of the financial crisis that Europe and the rest of the world has toiled with over the past years, criminal law measures need to be undertaken, to support measures taken in the financial markets to restore confidence. Work is on-going in the Council on important Commission proposals on **market abuse** and **insider trading**, introducing criminal sanctions.

In the current economic climate, and in the light of the Multi-annual Financial Framework, it is a priority to make swift progress in the negotiations on the draft Directive on the protection of the **financial interests** of the Union.

A new legislative framework should be set up for the protection of the financial interests of the Union, so that a level playing field is created between the member states and more effective prosecutions take place. The Commission is expected to put forward a proposal for a new Eurojust Regulation and for the setting up of a **European Public Prosecutor's Office** from Eurojust.

The Stockholm Programme also laid emphasis on the protection of **procedural rights** of suspected and accused persons. Directives on translation and interpretation and on right of information have been adopted, and the Commission produced a Green Paper, which led to wide public consultation on the application of EU criminal justice legislation in the field of detention.. The proposal on Access to lawyers is currently discussed. Comprehensive efforts must be made by all involved parties to promote the implementation of the Roadmap with a view to strengthening mutual trust among the member states. As called for in the Stockholm Programme, the Roadmap should be extended at least to issues relating to the presumption of innocence.

The Commission has been invited to submit to the Council a list of countries that have requested to conclude agreements on mutual legal assistance and extradition with the Union.

Negotiations on the draft **European Investigation Order**, on which the Council reached a General Approach, are continuing.

e-Justice

The e-Justice **portal** opened on 16 July 2010 and it is worth noting the serious way in which the portal is implemented. The portal is rapidly becoming a successful one-stop shop for citizens and practitioners, facilitating better access to justice. The Council looks forward to receiving, in 2013, a Commission proposal for a legal framework for e-Justice.

Judicial training

Training for practitioners as an essential means of enhancing mutual trust between practitioners should further be reinforced and the Council welcomes the Commission's communication on proposals to achieve the ambitious objectives set by the Stockholm Programme.

Cooperation in the area of Internal Security

In 2010 an Internal Security Strategy was adopted as the framework for maximising the impact of actions and make full use of resources and expertise. The strategy also seeks to ensure coherence and complementarity of the Union's internal and external actions.

The EU's work on matters of internal security has over the last years been very much focused on "**operationalising**" the plethora of existing instruments and intensifying the use of existing tools. The main innovation in this respect since the start of the Stockholm Programme is the EU policy cycle on serious and organised crime, developed through the Standing Committee on Operational Cooperation on Internal Security (COSI). This methodology aims to ensure a better fit between EU priorities and national as well as regional projects. While early results are promising it is already clear that sustained, Member States' commitment will be crucial for its survival and success.

In that context but also more generally, more **training** and more **multi-disciplinary cooperation** should remain a priority, despite budgetary constraints.

There is still a deplorable lack of knowledge at the operational level of what is available in the EU law enforcement toolbox. While the "Erasmus-style" exchange programme for law enforcement officers has taken off, with financial support from EU funding, the Commission's Communication on the European Training Scheme (ETS), expected in 2011, should be a serious impetus to improve that situation provided that the (national) stakeholders make the required commitments. Investing time, human resources and money in better overall coordination of the fight against crime will pay dividends in the far and not so distant future. Creative approaches, such as promoting the use of administrative tools to complement classical law instruments, forging new alliances with non-traditional partners, will be the key to combating ever diversifying and technologically sophisticated criminals.

So far, the Commission has not provided a proposal on more effective cooperation, including information exchange, between Europol, Eurojust and Frontex. Therefore, the "Lisbonisation" of the Europol, CEPOL and Eurojust founding instruments should be used as an opportunity to ensure complementarity between the agencies, avoiding overlaps in tasks and responsibilities which lead to competition for visibility and profile. Such a clear, effective and efficient European course would directly benefit work in the field. The Council should strive to reach a general approach on the future legislative proposals regarding **Eurojust**, **Europol** and **CEPOL** by the end of 2014.

On the other hand, more and sustained efforts will be necessary to provide the relevant authorities with the **technological tools**, notably but not exclusively in matters of **cybercrime**, to adapt their working methods to the evolving environment. A stronger EU approach in this matter will enable a multiplication of the benefits while allowing an economy of scale. As regards cybercrime, this is reflected in the Commission's communication on the European Cybercrime Centre as well as the corresponding Council conclusions. Beyond the operational co-operation, the EU also reinforced its legal framework through a Directive ensuring a better protection against large-scale cyber attacks.

Also in the area of cyber crime, the Stockholm programme called for identifying measures in order to **protect children** against sexual exploitation and abuse. A Directive was adopted to reinforce measures for preventing on-line child sexual abuse, to facilitate the prosecution of perpetrators and to improve the protection of child victims.

In the area of **trafficking in human beings**, the Commission appointed in December 2010 its Anti-Trafficking Coordinator to strengthen coordination, coherence and partnerships in and outside the EU. The first implementation report on the Action Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings was adopted in June 2011 and the second and final report is foreseen for adoption in December 2012. A Directive on preventing and combating trafficking in human beings and protecting its victims was adopted in April 2011.

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 was endorsed by the Council through Council Conclusions in October 2012, with a view to strengthening action and improving coordination and coherence in EU policy.

The **exchange of information**, well-tailored and proportionate to the needs but also innovative and adapted to the challenges, will be an essential element. The Commission's communication on the European Information Exchange Model (EIXM) is awaited to tackle this issue. Meanwhile, it is regrettable that more than 4 years after their adoption and 5 years after the political commitment was taken, the Prüm Decisions are implemented by barely half of the Member States.

Using the Commission's evaluation of the existing Strategy and its communication on the future EU response to drugs, the Council is currently drafting the next **EU Drugs Strategy 2013-2020**. On a more specific level, the Council welcomed the Commission's review of the Council Decision on new psychoactive substances but is still awaiting the urgently needed legislative proposal for amending this Decision.

The current financial crisis required a more firm policy favouring transparency and accountability as well as taking a firmer stance against corruption. A 2011 Communication on "Fighting **corruption** in the EU" paved the way for the first ever EU Anti-Corruption Report due to be published in 2013.

Organised crime requires innovative approaches to effectively address the problem in a sustainable manner; i.a. through a proposal for Directive on **confiscation** of criminal assets, which is currently under negotiation.

In the area of **counter-terrorism**, work was taken forward on the implementation of the EU Action Plan on Radicalisation and Recruitment, notably through the Commission's setting up of the "Radicalisation Awareness Network" (RAN) as well as by working towards the implementation of the EU CBRN Action Plan and the EU Action Plan on Enhancing the Security of Explosives. Furthermore, in July 2012 a political agreement was reached on the proposal for a Regulation on the use and marketing of precursors to explosives.

In 2010, the EU also concluded an agreement with the USA on the processing and transfer of financial messaging data for the purposes of the **Terrorist Finance** Tracking Programme (TFTP).

Civil Protection

With regard to the call for a comprehensive and effective **Union Disaster Management**, work is well underway to strengthen the Union's action in the field of civil protection, based on the new legal provision in the Lisbon Treaty. The promotion of a risk-based approach to Member States' prevention and preparedness policies and the strive for better risk management planning are important features of the relevant Commission proposal. This includes an enhanced availability and interoperability of Member States' civil protection resources and a reinforcement of the Monitoring and Information Centre (MIC) to support their coordination in major disasters also outside the Union's territory.

Work on the Union's strategic approach to reduce the threat of, and damage from, **CBRNE** incidents of accidental, natural and intentional origin, including terrorist acts, is taken forward with the aim to develop an overarching approach which could also encompass the security of Explosives in order to increase synergies between these policy areas.

A reinforced external dimension

The Stockholm Programme underlined the rising importance of the external dimension of the EU's policy in the area of freedom, security and justice. The objective was twofold: reinforce EU relations with third countries and serve the internal security.

Some of the objectives of the Stockholm Programme with regard to the external dimension were accomplished whereas others progressed only to a limited extent.

The **geographical priorities** remained overall unchanged. Relations with the United States, Russia and the Western Balkans developed generally in a satisfactory manner.

In the follow-up to the Arab spring there was an expectation to develop a strong partnership to support democratic change in the Mediterranean region. The transition process in the region remains a challenge, and so far, there are few concrete results, including the migration dialogues with Morocco and with Tunisia, or the recent Conference in Limassol on Judicial Cooperation in Criminal Matters between the European Union and the ENPI (European Neighbourhood Policy Initiative) Countries or the preparation of a dedicated justice reform project in Tunisia.

Relations with the Eastern Partnership have become more concrete following the 2011 Summit. However, the pace of reform in the partner countries is uneven, and the EU engagement has to be adjusted accordingly, following the more for more principle. But the on-going visa dialogues with some of the partners as well as the launch of concrete projects such as the Judicial Panel allow the EU to continue to support reform processes in these countries. They might gain in political authority if a JHA Ministerial meeting is organised, as suggested by the Commission in its Communication and foreseen in the Council Conclusions adopted in December 2011. First ideas have been developed regarding other strategic partners, including India and China. Regarding China, a Cybercrime task force has been created at the last Summit, and there is the idea of a rule of law dialogue. Regarding India, there is an ongoing reflecting on a possible cooperation on data protection and mutual legal assistance. The cooperation with Latin American countries on drugs has been expanded in light of the upcoming EU-LAC Summit in January 2013 in Chile.

The current **thematic priorities** remain on the agenda; given their impact on the society more attention is needed on cyber issues.

On the **mechanisms** to bring JHA external relations to a higher level, it wasn't possible yet to enhance the level of JHA competence in EU Delegations abroad, as it had been envisaged in the SP. On complementarity between the EU and Member States' actions, Council Conclusions were adopted on this in December 2011. It is worth mentioning again the importance to associate Member States in formulating external policies and to inform them of on-going negotiations.

Human rights questions remain on the agenda, EU continues to raise human rights issues internally as well as externally in the international fora. In this respect, the recently adopted Action Plan on Human Rights provides guidance on the key priorities.

The EU has also continuously promoted high **data protection** standards and is making progress regarding concrete cooperation with key partners. The Council adopted the Commission's proposal for a negotiation mandate for an umbrella agreement between the EU and US on Data Protection for law enforcement purposes with the US. Negotiations are currently ongoing on which, according to the mandate, the Commission should report regularly to the Council. Moreover, there has been recent adequacy finding with key partners in other regions, including Uruguay and New Zealand, and others will follow.

Conclusion

The Cyprus Presidency notes that substantial progress has been made on several objectives of the Stockholm Programme. However, in some areas, progress is lagging behind either due to the lack of Commission proposals or due to certain delays in the adoption/implementing phase (either by the Council and/or by Member States).

The Presidency invites the Council to indicate priorities for taking forward the implementation of the Stockholm Programme on the basis of this overview.