

## *Hearings of European Commissioners-designate*

# Dimitris Avramopoulos

## *Migration and Home Affairs*

Hearing due to be held on Tuesday 30 September at 13.30 hours.



*Dimitris Avramopoulos, Greece.*

**EP Committee responsible for the Hearing**  
Civil Liberties, Justice and Home Affairs (LIBE)

### **Biography**

Born in 1961, Dimitris Avramopoulos studied law and worked as a career diplomat. He was Mayor of Athens from 1995 to 2002. In Parliament since 2004, he has held a number of different ministerial portfolios: tourism (2004-2006), health (2007-2009), defence in 2011 and foreign affairs (2012-June 2013). Most recently, he has been Minister for Defence.

*This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at:*

[http://epthinktank.eu/commissioner\\_hearings](http://epthinktank.eu/commissioner_hearings)

## Background

External migration is a highly politicised policy field, with public opinion strongly divided, and thus a major electoral issue at national level. Cooperation between Member States has seen constant tension, with countries exposed to migration inflows making repeated calls for more EU solidarity and responsibility-sharing.

Decisions on internal security issues – i.e. police cooperation on various forms of serious crime and terrorism – tend in turn to be made 'behind closed doors' with little accountability to democratically elected institutions. Therefore various stakeholders, including civil society groups and the European Parliament, have repeatedly called for improved oversight of security-related policies with an impact on civil liberties.

Member States have been reluctant to share their home affairs competences with the EU, perceiving such issues to be essential for national sovereignty. Initially, therefore, EU action was mostly intergovernmental. However, some areas were '*communautised*' with successive changes to the Treaties, and the Lisbon Treaty finally abolished the pillared structure of the Union, resulting in a higher profile for the home affairs field.

### Treaty base and EP powers

Police cooperation: Articles 87-89 TFEU; Migration policy: Articles 67(2), 79 and 80 TFEU; Management of the external borders: Article 67(2) and 77 TFEU; Asylum policy: Articles 67(2) and 78 TFEU, and Article 18 of the EU Charter of Fundamental Rights (Right to asylum). Most areas fall under the ordinary legislative procedure, but this does not extend to provisions on passports, identity cards and residence permits (other than for 'short stays'), or operational police cooperation. These are dealt with under a special legislative procedure requiring unanimity in the Council and the consent of the European Parliament. However, for police cooperation, if there is no such unanimity, at least nine Member States may establish enhanced cooperation, with authorisation to proceed deemed to be granted.

## Recent developments

Following the Lisbon Treaty's entry into force in 2009, policy and legislative priorities for the period 2010-14 were defined in the Stockholm Programme. In 2010, a new Commission portfolio of 'Home Affairs' was created, separated from the former Justice and Home Affairs portfolio. The area is also characterised by activities of various EU agencies. Setting up the EU Agency for large-scale IT systems (eu-LISA) and the European Cybercrime Centre (EC3) within Europol were among recent major developments.

A substantial revision of the **asylum** *acquis* marked an important step in building the Common European Asylum System (CEAS) and could be the most important legislative achievement of the seventh parliamentary term. It covered the Asylum Procedures Directive, the Reception Conditions Directive, the Qualification Directive, the Dublin Regulation and the EURODAC Regulation. In addition, the European Asylum Support Office (EASO) and the joint EU Resettlement Programme were set up.

In the **migration** field, the Single Permit Directive was adopted in 2011, providing for rights for legally resident non-EU workers. The Directive on seasonal workers and the Directive on intra-corporate transfers of non-EU skilled workers were also adopted. Parliament completed its first reading of the proposed directive on entry and residence conditions of students and researchers, but negotiations with Council are yet to start.

The **Schengen** governance package was adopted following lengthy negotiations with the Council. Moreover, the European Border Surveillance System (Eurosur) was set up and

the second generation Schengen Information System (SIS II) became operational, managed by the eu-LISA. Furthermore, the mandate of Frontex (the agency for management of operational coordination at the EU's external borders) was revised, to include new provisions on respect for fundamental rights in the agency's activities.

The three institutions agreed that the Smart Borders Package (proposals for an Entry/Exit System and Registered Traveller Programme, as well as that amending the Schengen Borders Code) could not be followed up on as they required a further technical study and an ensuing pilot project.

The seventh term saw the Visa Information System (VIS) extended to cover further regions and a series of **visa** facilitation and readmission agreements. In April 2014, the Commission proposed major amendments to the Visa Code.

A proposal for a new Europol Regulation – merging of Europol and Cepol – was the main initiative in the **police cooperation** field. The Parliament and Council oppose this merger, but concluding the revision of the Europol Regulation remains a high priority.

### **Data retention**

Whilst the debate over the review of the EU data protection regime mainly involved the Justice Commissioner, data retention was part of the Home Affairs portfolio as it provided for access to information retained for law enforcement purposes. In April 2014, the Court of Justice of the EU (CJEU) declared invalid the Data Retention Directive in force, a judgment likely to impact on further debate over the package.

### **Drug control**

Responsibility for anti-drugs policy was in the Justice portfolio in the outgoing Commission, but has been moved to Migration and Home Affairs by President-elect Jean-Claude Juncker. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) provides evidence to support the debate, but action in this field is essentially reserved to Member States. Each year, the EMCDDA's Director submits the general report of activities to the LIBE Committee. In 2013, the two Regulations on monitoring trade in drug precursors were amended. In 2014, the Parliament adopted its first reading positions on the Regulation on new psychoactive substances and the Directive on minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking. Both proposals are now before the Council.

## **European Parliament**

The Lisbon Treaty extended the use of the ordinary legislative procedure to most areas under home affairs. The Parliament reacted to the draft Stockholm Programme in a comprehensive 2009 resolution, launching its enhanced co-legislator's role.

Moreover, since Lisbon, the Parliament's consent has been required for all international agreements. In 2010, the EP made use of these new powers to reject the agreement with the US on the Terrorist Finance Tracking Programme (SWIFT/TFTP). Although it approved a revised version, it later called for this agreement's suspension. In 2012, amidst similar concerns related to data protection, the EP approved the PNR agreement with the US. These two debates affirmed the Parliament's central role in respect of international agreements in the area of police and judicial cooperation.

The Civil Liberties Committee has been active on home affairs, both within and outside the legislative process. The latter was illustrated by the extensive inquiry into mass

surveillance of EU citizens, a problem at the intersection of internal and external security, anti-terrorism activities and fundamental rights.

### Priorities and challenges

The eighth parliamentary term will be marked by two important developments, crucial for the future shape of migration and home affairs policies. First, the Stockholm Programme ends on 31 December 2014. While post-Stockholm priorities are yet to be decided, the European Council's strategic guidelines of June 2014 underline that it will not be replaced by a new detailed programme. Instead, the EU institutions should focus on the evaluation, consolidation, improvement and better implementation of existing legal instruments. This approach seems to stem from the current political context and aims at enhancing mutual trust between Member States, which is a prerequisite for the proper implementation of EU instruments. The European Council also points to the need for building synergies between the EU's internal and external policies.

Second, on 1 December 2014, the end of the transition period (Lisbon Treaty, Article 10 of Protocol 36), means police and judicial cooperation in criminal matters will be fully integrated into the EU's legal system. This will remove limitations on judicial review by the Court of Justice and to the Commission's power to launch infringement proceedings against Member States. Moreover, the UK's opt-out from pre-Lisbon third-pillar acts, and stated intention to opt back in to 35 of these acts will have to be addressed.

The political guidelines of President-elect Jean-Claude Juncker and his mission letter to Avramopoulos give a prominent place to migration-related issues, including:

- a new policy on legal migration, starting with the review of the 'Blue Card' Directive;
- using EASO to assist in dealing with refugees and asylum requests in emergency situations, including on the territory of third countries;
- boosting the effectiveness of Frontex, which would include increasing its budget now amounting to €90 million annually.

Moreover, the new Commissioner is supposed to focus on addressing crimes with a clear link to EU policies, such as human trafficking, smuggling and cybercrime, as well as finding the right EU approach to terrorism. The latter should include concrete operational measures to address issues such as 'foreign fighters' (e.g. in Syria).

### Further reading

[Area of freedom, security and justice](#), Factsheets on the EU / European Parliament, 2014.

[Directorate General for Home Affairs website](#) / European Commission.

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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu)

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